INDEX TO JOINT APPENDIX

	PAGE
Chronological List of Dates on Which Pleadings Were Filed, Hearings Held and Orders Entered	1
Complaint for Injunction	3
Petition for Removal	18
Order Granting Motion to Remand	20
Amended Complaint for Injunction	21
Answer	29
Defendant's Exhibit #A for Identifying (Order for Preliminary Injunction in Case #63-16-A, FEC Ry. Co. v. Jax. T. Co., et al., U. S. District Court, Middle District, Fla.)	36
Defendant's Exhibit #1 (Complaint in Case #66-357, ACL RR. Co., et al. v. BRT et al., U. S. District Court, Middle District, Fla.)	47
Defendant's Exhibit #2 (Order for Preliminary Injunction in Case #66-357, ACL RR. Co., et al. v. BRT et al., U. S. District Court, Middle District, Fla.)	56
Defendant's Exhibit #3 (Order of U. S. Court of Appeals, 5th Circuit, in BRT v. ACL RR. Co., et al., No. 23,659)	62

PAGE

Plaintiff's Exhibit #1 (Colored Map) 63

Plaintiff's Exhibit #10 (Photo) 64

Plaintiff's Exhibit #13 (Photo) 66

Plaintiff's Exhibit #16 (Photo) 68

Plaintiff's Exhibit #21 (List of Companies) 70

Plaintiff's Exhibit #22 (List of Companies) 71

Plaintiff's Exhibit #23 (Map) 75

Order on Pleadings 76

Motion and Order to Drop Parties 78

Order for Temporary Injunction 79

Interrogatories to Defendants 83

Motion to Strike 87

Order 90

Order on Pleadings and Interrogatories 91

Order Setting Final Hearing 92

Stipulation and Exhibits Thereto 93

Portions of Defendant's Exhibit #1 (Constitution of BRT) 120

PAGE

Defendant's Exhibit #2 (Operating and Guaranty Agreement Between Jax. T. Co. and ACL, RR., FEC Ry., SAL RR. Co., So. Ry. Co., and Ga., So. & Fla. Ry. Co.) 123

Motion to Amend Pleadings 166

Order on Motion 167

Answers to Interrogatories 168

Final Decree 180

Notice of Appeal 186

Assignments of Error 187

Testimony and Proceedings, Saturday Afternoon, May 28, 1966 188

Witnesses:

Dave Rawls 197

William J. Hicklin, Jr. 201

F. M. Kimbrough 209

Paul Orleman 212

William E. Satterwhite 215

Stipulation 225

Charles Barrett 238

Raymond C. Moore 243

Louis F. Scheich 267

PAGE

Morris Altman 268

Cecil W. Batten 280

Testimony and Proceedings, Saturday Evening, May 28, 1966 295

Witnesses:

Alfred G. Johnson 295

Marshall C. Jennette 300

L. T. Andrews 333

Stipulation 343

Raymond C. Moore 343

Marshall C. Jennette 345

A. L. Groves 353

Carl H. Wright 390

Excerpts From Testimony and Proceedings, Sunday Morning, May 29, 1966 406

Argument of Mr. Friedman, Counsel for Plaintiff and Mr. Milledge, Counsel for Defendants 406

Statement by Court 408

Opinion of District Court of Appeals, 1st District 417

Notice of Appeal to Fla. Supreme Court 418

Order of Fla. Supreme Court on Motion to Dismiss Appeal 419

Order of Fla. Supreme Court Denying Petition for Writ of Certiorari 420

Chronological List of Dates on Which Pleadings Were Filed, Hearings Held and Orders Entered in *Brotherhood of Railroad Trainmen et al.* v. *Jacksonville Terminal Company*, Case No. 69, U. S. Supreme Court, October Term, 1968

1. Complaint for Injunction—filed May 23, 1966.
2. Petition for Removal—filed May 24, 1966.
3. Order of Remand—filed in U. S. District Court on May 26, 1966 and filed in Florida Circuit Court on May 27, 1966.
4. Amended Complaint for Injunction—filed May 27, 1966.
5. Answer—filed May 27, 1966.
6. Order Granting Leave to File Amended Complaint and Deeming Answer as Applying to Amended Complaint—filed May 28, 1966.
7. Hearing for Taking of Testimony and Proceedings—Saturday afternoon, May 28, 1966.
8. Hearing for Taking of Testimony and Proceedings—Saturday evening, May 28, 1966.
9. Hearing for Taking of Testimony and Proceedings—Sunday morning, May 29, 1966.
10. Motion to Drop Defendants Groves and Wright—filed May 30, 1966.
11. Order Dismissing Defendants Groves and Wright—filed May 30, 1966.

12. Order for Temporary Injunction—filed May 30, 1966.
13. Order of Florida District Court of Appeal, First District, Denying Suggestion for Writ of Prohibition—filed June 9, 1966.
14. Interrogatories to Defendants—filed June 14, 1966.
15. Motion to Strike—filed June 14, 1966.
16. Order Setting Hearing on Motions and Final Hearing—filed June 20, 1966.
17. Order on Motion to Dismiss, Motion to Strike and Objections to Interrogatories—filed June 23, 1966.
18. Order Setting Final Hearing—filed June 23, 1966.
19. Stipulation and Exhibits Attached Thereto—filed July 26, 1966.
20. Excerpts from Joint Appendix in Case No. 19,084, Styled I.B.E.W. et al. v. N.L.R.B., 350 F.2d 791 (C.C.A. D.C. 1965)—filed July 29, 1966.
21. Motion by Defendants Eason and Bolin—filed July 29, 1966.
22. Order on Motion—filed July 29, 1966.
23. Answers to Interrogatories—filed July 29, 1966.
24. Final Decree—filed July 29, 1966.
25. Notice of Appeal—filed September 26, 1966.
26. Assignments of Error—filed October 5, 1966.
27. Directions to the Clerk—filed October 5, 1966.
28. Order Extending Time for Filing Appellee's Brief—filed December 20, 1966.

29. Motion to Expedite Case for Oral Argument—filed January 20, 1967.

30. Oral Argument of Appeal before First District Court of Appeal—March 30, 1967.

31. Per Curiam Decision of District Court of Appeal, First District, State of Florida, Affirming Final Decree—filed July 18, 1967.

32. Notice of Appeal to Supreme Court of Florida—filed September 15, 1967.

33. Directions to the Clerk—filed September 15, 1967.

34. Assignments of Error—filed September 15, 1967.

35. Petition for Writ of Certiorari—filed in Florida Supreme Court September 15, 1967.

36. Appendix to Petition for Writ of Certiorari for Petitioners—filed in Supreme Court of Florida September 15, 1967.

37. Appendix to Petition for Writ of Certiorari for Respondents—filed in Supreme Court of Florida September 28, 1967,

38. Motion to Dismiss Appeal—filed October 14, 1967.

39. Hearing on Motion to Dismiss Appeal—November 6, 1967.

40. Order of Florida Supreme Court Dismissing Appeal—filed November 7, 1967.

41. Order of Supreme Court Denying Petition for Writ of Certiorari—filed January 30, 1968.

42. Directions to Clerk for Preparation of Record to U. S. Supreme Court—filed April 17, 1968.

43. Motion for Order Releasing and Transmitting Exhibits —filed April 22, 1968.

44. Order of Florida Supreme Court Releasing and Transmitting Exhibits to U. S. Supreme Court—filed April 22, 1968.

45. Petition for Writ of Certiorari—filed in U. S. Supreme Court April 29, 1968.

46. Order of U. S. Supreme Court Granting Petition for Writ of Certiorari—filed June 10, 1968.

Complaint for Injunction

[Filed May 23, 1966]

IN THE

CIRCUIT COURT

FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

Case No. 66-2941-E in Chancery

Division B

JACKSONVILLE TERMINAL COMPANY, a corporation,

Plaintiff,

—VS.—

BROTHERHOOD OF RAILROAD TRAINMEN, an unincorporated association in its own right and as representative of its membership and Ray Moore and Lowell Kennedy, individually and as officials of said brotherhood; and the members of said organization;

ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN, an unincorporated association in its own right and as representative of its membership and T. C. Boland, individually and as an official of said brotherhood; and the members of said organization;

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, an unincorporated association in its own right and as representative of its membership and J. E. Eason, individually and as an official of said brotherhood; and the members of said organization,

Defendants.

Comes now Jacksonville Terminal Company, Plaintiff, by and through its undersigned attorneys, and respectfully shows to the Court as follows:

1. Plaintiff is a corporation organized and existing under the Laws of the State of Florida, with its principal place of business in Jacksonville, Duval County, Florida. Plaintiff is engaged in the railroad terminal business at Jacksonville, Florida, where it owns and operates railroad yards and a railway station that provides such services for the following railroads: Atlantic Coast Line Railroad Company; Seaboard Airline Railroad Company; Florida East Coast Railway Company; and Southern Railway System.

2. The Defendants are an unincorporated labor organization; the defendant Ray Moore is Deputy Vice President of the defendant Brotherhood of Railroad Trainmen and generally is in charge of promoting the acts and things hereinafter alleged; other defendants are members of said labor organizations or individuals participating in concert with said organizations in the unlawful acts hereinafter set forth. The members of the above-captioned labor organizations are so numerous as to make it impracticable to bring them all befofe the Court.

3. This action arises under the Constitution and Laws of the State of Florida.

4. The defendant Brotherhoods are presently on strike against the Florida East Coast Railway Company and in the course of said strike have directed primary and lawful picketing against said railroad at various locations throughout the State of Florida. The plaintiff in 1963 designated a separate entrance in and to its premises for use exclu-

sively by the employees of the Florida East Coast Railway Company.

5. At the present time the plaintiff has collective bargaining contracts with the defendants, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen. Said collective bargaining contracts are presently in full force and effect and there is no dispute thereunder, major or minor, within the meaning of the Railway Labor Act. None of plaintiff's employees are represented by the defendant, Brotherhood of Locomotive Firemen and Enginemen. None of the defendants named individually above are employees of plaintiff and plaintiff further alleges that it has no labor dispute with any of the above named defendants and that no labor demands have been made to plaintiff by any of its employees or their respective bargaining agents.

6. On to-wit, May 4, 1966, the defendant Brotherhoods their officers, agents and employees commenced picketing and patrolling the premises of the plaintiff at places other than the entrance designated for use by Florida East Coast Railway employees to the end that plaintiff's premises were completely surrounded. Said pickets identified themselves as members of the defendant, Brotherhood of Railroad Trainmen and carried placards which state that they are on legal strike against the Florida East Coast Railroad. Plaintiff is informed and believes that all three of the defendant Brotherhoods are on strike against the Florida East Coast Railroad Company and further believes that the defendants other than the Brotherhood of Railroad Trainmen, unless hereby enjoined, will continue or commence picketing of plaintiff's premises.

7. As a result of the acts of defendants the employees of plaintiff, Atlantic Coast Line Railroad Company and the Seaboard Airline Railroad Company, none of whom were or are in any wise involved in the dispute between defendants and the Florida East Coast Railway Company, were induced and encouraged thereby to honor said pickets and to refuse to honor their respective work contracts by reporting to work. Plaintiff further alleges that defendants further counseled, advised and persuaded plaintiff's employees to not report to work, even though plaintiff's employees were and are not involved in any dispute with plaintiff regarding their working agreement.

8. As a result of the above and foregoing acts of defendants, plaintiff and other railroads filed an action for injunctive relief and damages in the United States District Court for the Middle District of Florida on May 4, 1966, being case No. 66-357-Civ-J. As a result of said Complaint the Hon. William A. McRae, Jr., United States District Judge issued a Temporary Restraining Order on May 4, 1966, and thereafter, on May 10, 1966, after a full evidentiary hearing, entered a preliminary injunction enjoining the acts of defendants. Thereafter defendants on to-wit, May 18, 1966, applied for and obtained from the United States Court of Appeals for the Fifth Circuit an Order staying the preliminary injunction. Thereafter said Court sitting in Atlanta, Georgia on May 23, 1966, entered its Order dissolving said preliminary injunction effective eleven o'clock A.M. May 24, 1966 on the grounds that the District Court was without jurisdiction. Plaintiff is informed and verily believes that said picketing will be resumed immediately and their presence is imminent unless this Court grants the relief herein sought.

9. During the proceedings before the District Court the defendant, Ray Moore, who identified himself as Deputy Vice President of the defendant, Brotherhood of Railroad Trainmen, testified that the purpose of the alleged picketing was to induce the plaintiff, its officers, agents and employees not to perform services for the Florida East Coast Railway Company.

10. There is no dispute between plaintiff and its employees or between plaintiff and defendants which is subject to the provisions of the Railway Labor Act.

11. The provisions of the National Labor Relations Act as amended, 29 U. S. C. A. §141 et seq. are not applicable to the instant situation and the same cannot be said to be "arguable" within the meaning and application of said Act in that plaintiff and defendants are expressly excepted therefrom. 29 U. S. C. A. §152(2)(3).

12. The acts of defendant constitute a secondary boycott of plaintiff's premises, are an illegal and unwarranted interference with the collective bargaining agreements between plaintiff and its employees, are contrary to the public policy, safety and welfare of the State of Florida as pronounced in the Constitution and Laws of the State of Florida and if permitted to continue will result in immediate and irreparable harm and injury to plaintiff, many industries in the State of Florida and the public at large all of which more particularly appears from the affidavits of Arthur C. Herrington, Alfred G. Johnson and G. C. Jones, Cecil Batton attached hereto and by this reference made a part of this complaint. Many of plaintiff's employees will be deprived of earning their livelihood.

13. Jurisdiction of this matter not being proper in the Federal Courts, this Court has jurisdiction of the subject matter and the parties and is the only forum that can grant plaintiff relief and prevent the great and irreparable damages that will flow with certainty from defendants actions. Plaintiff has no other remedy. Far greater injury will be inflicted on plaintiff and the citizens of the State of Florida by denial of the relief sought herein than can result to the defendants by the granting of said relief prayed for herein.

WHEREFORE, Plaintiff prays:

1. That the Court issue a preliminary injunction made permanent on final hearing, and pending hearing and determination of plaintiff's motion for a preliminary injunction the Court issue a temporary restraining order on the grounds that immediate, irreparable injury, loss and damage will result to plaintiff before notice can be served and a hearing had on said Motion for Preliminary Injunction.

2. That the temporary restraining order, preliminary injunction and permanent injunction enjoin and restrain the defendants individually and their officers, agents, servants, employees, representatives, members, attorneys and all other persons acting at the direction of or in active concert or participation with them, and all persons receiving notice of any such orders of the Court from:

(a) Ordering, directing, authorizing, recommending, sanctioning, starting, continuing, permitting, or participating in the patrolling, picketing or blockading of, or the interference with, the entrances or exits of any kind or description, used by the employees of the Plaintiff and other non-striking employers in connection with their work or in land, buildings, facilities or other property operated,

owned or controlled by Plaintiff; provided, however, that this order shall not apply to the reserved entrance located at Bay and Stuart Streets, Jacksonville, Florida, designated for use by Florida East Coast Railway Company employees only.

(b) Causing, compelling or inducing the employees of the Plaintiff or the employees of other non-striking employers who report for work at the Jacksonville Terminal Company to cease performing the duties of their employment.

(c) Interfering with employees of Plaintiff in the performance of their respective duties of their employment by fines or otherwise, or paying any benefit and giving any money or anything of value to any employee of Plaintiff who refuses a lawful order to perform services for Plaintiff in accordance with any collective bargaining agreement covering said services in, on or about Plaintiff's facilities, or supporting in any way any employee of Plaintiff who refuses to obey a lawful order or request to perform such services.

(d) Interfering with the operations of and employment at the Jacksonville Terminal Company by any force, intimidation, violence or threats thereof.

3. That a day certain be fixed upon which defendants are required to show cause, if any they have, why they should not be permanently enjoined from committing the acts herein above complained of.

4. That a copy of this Complaint and the prayed for temporary restraining order be served on defendants in person.

5. That upon a final hearing of this cause, defendants be permanently enjoined from committing the acts herein above complained of.

6. That, on final hearing, Plaintiff may have damages against said defendants or some of them in such amount as the Court may deem to be just, as well as its costs in this action.

7. That Plaintiff have such other and further relief as the Court may deem proper and just.

Affidavit of Cecil Batton

STATE OF FLORIDA)
COUNTY OF DUVAL)

Before me, an officer duly authorized to administer oaths, this day personally appeared CECIL BATTON, to me well known, who being by me first duly sworn, deposes and says:

That he is Superintendent of Transportation charged with the responsibility for the movement and switching of trains in the tracks and yards of Jacksonville Terminal Company. The employees in the Transportation Department are clerks, yardmasters, switchmen, conductors, engineers, hostlers, firemen, interlocking towermen and telegraph operators, totaling 174 men in March of 1966, who performed 29,130 man hours of work and earned $91,032.20 wages.

On May 4, 1966 the employees of the Transportation Department observed the picket lines thrown up by F. E. C. Ry. striking employees. The functions of the Transportation Department were performed by retaining men on their jobs who were working when the pickets were stationed. These men can be retained only during the time permitted by the hours of service law. If the work of the Transportation Department is interrupted no passenger, mail or express trains could be operated into or out of the City of Jacksonville and a large percentage of the freight traffic would come to a standstill.

Further affiant sayeth not.

Dated this 9th day of May, A. D. 1966.

Affidavit of Arthur C. Herrington

Before me an officer authorized to administer oaths, this day personally appeared ARTHUR C. HERRINGTON, to me well known, who, being by me first duly sworn, deposes and says:

That he is Master Mechanic of Jacksonville Terminal Company, and charged with responsibility for the management, direction and operation of the mechanical department of Jacksonville Terminal Company, including inspection, maintenance, and servicing of railroad locomotives of Jacksonville Terminal Company and locomotives and cars of its tenant lines, ACL RR, SAL RR, So. Ry. and FEC Ry., and also the repair thereof and further inspection, maintenance service and repair of machinery, and mechanical equipment used in the operation of the railroad yards and facilities.

The employees in the mechanical department number approximately 215, who worked 40,703 man hours in March of 1966, earning wages for that period in a total of $117,328.33.

The crafts included in the mechanical department include: supervisors, electricians, carmen, sheet metal workers, machinists, helpers, laborers, and clerks, car cleaners, ice and water men.

The mechanical department, among other things, is currently servicing forty-four passenger trains daily, except on Sunday, when there are only forty-two trains. Of these trains, the FEC Ry. operates two trains daily except on Sunday, which are composed of one locomotive unit and two passenger cars, each. These FEC passenger cars, for the month of March, constituted .59 of one per cent of the

passenger cars handled by Jacksonville Terminal Company during that period of time.

On May 4th when FEC pickets picketed Jacksonville Terminal Company premises, the mechanical department was able to operate only so long as it was able to hold its employees on duty who were working at the time.

Further affiant sayeth not.

Dated this 9th day of May, A. D. 1966.

Affidavit of Alfred G. Johnson

STATE OF FLORIDA)
COUNTY OF DUVAL)

Before me, an officer duly authorized to administer oaths, this day personally appeared ALFRED G. JOHNSON, to me well known, who being by me first duly sworn, deposes and says:

That he is Operations Manager of Railway Express Agency, Incorporated, which operates a railway express terminal in the City of Jacksonville on land which it leases from Jacksonville Terminal Company, and which is adjacent to the yards and track facilities of said Jacksonville Terminal Company, and said express terminal of REA does not have a rail connection with the interstate rail carriers except by the rails and tracks of said Jacksonville Terminal Company.

Railway Express Agency, Incorporated has approximately 300 employees who worked 59,878 man hours in the month of March, 1966;

The actual volume of shipments of express during said period of time both in and out and for the whole State of Florida was 2,218,992 pieces; and all of such express shipments were of necessity handled through its Jacksonville office and the facilities of Jacksonville Terminal Company.

All of the express business aforesaid was handled by REA for the account of ACL RR Co. and SAL RR Co. No express business was handled by REA for either F. E. C. Ry. Co. or So. Ry. system.

The volume of express matter handled by REA is largely perishable goods, such as ferns, flowers, fish and fruit; the delay in the handling of which would result in great loss to the value of such express matter.

During the time the premises of Jacksonville Terminal Company were picketed by striking employees of F. E. C. Ry. Co. on or about May 4th delivery of express cars was delayed as follows:

six cars from ACL #375,
two cars from ACL #95,
one car from SAL #38,
one car from SAL #36,
three cars from ACL #76, and
three cars from ACL #38;

the daily average of railway express cars handled by REA is 64 cars, all of which must be delivered to and taken away from the express terminal of REA over the tracks and yards and by the employees of Jacksonville Terminal Company.

An interruption of the flow of express business into and out of the Jacksonville express terminal would result in irreparable injury and damage to REA and to its shipping customers.

Further affiant sayeth not.

Dated this 9th day of May, A. D. 1966.

Affidavit of G. G. Jones

STATE OF FLORIDA)
COUNTY OF DUVAL)

Before me, an officer duly authorized to administer oaths, this day personally appeared G. G. JONES, to me well known, who being by me first duly sworn, deposes and says:

That he is General Baggage and Mail Agent for Jacksonville Terminal Company responsible for receiving, loading and unloading, sorting, classifying, directing and handling United States mail and baggage, including remains of deceased persons, for all of the passenger, mail and express trains that arrive at and depart from the City of Jacksonville. This department employs approximately 225 people, including supervisors, tractor drivers, separators, loaders and porters. For the month of March 1966 these employees worked 37,141 man hours and earned $100,476.00 in wages. During the month of March this department handled 1,930,614 sacks of U. S. mail. This constitutes about 95% of all U. S. mail coming into or going out of the State of Florida, or within Duval County.

Included in baggage for the month of January 1966 (the only month in which this statistic was separated), were 569 remains of deceased persons; and 32,089 pieces of checked baggage; there was no other baggage handled of which a direct record was made by affiant.

During the May 4th, 1966 picketing of Jacksonville Terminal Company premises by striking employees of F. E. C. Ry. Co. the employees of the Baggage and Mail Department refused to cross the picket lines and in due time the

work in the department would ultimately have broken down completely.

A part of the mail handling above referred to, is performed for the U. S. Post Office Department, and not for the Terminal Company's tenant lines, this is mail which Jacksonville Terminal Company's employees load or unload from trucks because of the lack of post office facilities for handling this business. This work for March 1966 amounted to an average of 23,241 sacks per day or 720,471 for the month.

No mail or baggage is handled for the F. E. C. Ry. Co.

The operation of the Baggage and Mail Department operates twenty hours each day. In the event of an interruption of service mail would accumulate that could not be handled, delivered or dispatched. It would probably require six days to recover or dispose of the mail which would accumulate in one day's interruption. In addition to the difficulty of working accumulated mail, there would be a problem of coordinating and adjusting the electronicalled controlled mail handling equipment.

Further affiant sayeth not.

Dated this 9th day of May, A. D. 1966.

Petition for Removal

IN THE

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

Case No. 66-394-Civ-J

To the Judges of the United States District Court for the Middle District of Florida:

The Petition of Brotherhood of Railroad Trainmen, a labor organization, respectfully shows:

1. On the 24th day of May, 1966, an action was commenced against Petitioner in the Circuit Court, in and for the Fourth Judicial Circuit of Florida, styled Jacksonville Terminal Company, a corporation, plaintiff, vs. Brotherhood of Railroad Trainmen, a labor organization, et al., by service upon Petitioner of Summons and Complaint, copies of which are attached hereto. True copies of all matters filed in said cause are attached hereto.

2. The above described action is a civil action of which this Court has original jurisdiction under the provisions of 28 USCA, Section 1337, and is one which may be removed to this Court by Petitioner, pursuant to 28 USCA, Section 1441, in that it appears from the Complaint that this is a civil action arising under one or more of the following Acts of Congress regulating Commerce:

49 USCA, Section 3(4), Interstate Commerce Act
45 USCA, Section 151-188, Railway Labor Act

3. Petitioner files herewith a bond with good and sufficient surety conditioned, as provided by Title 28, United States Code, Section 1446(d), that it will pay all costs and disbursements incurred by reason of the removal proceedings hereby brought should it be determined that this action is not removable or is improperly removed.

WHEREFORE, Petitioner prays that the above action now pending against him in the Circuit Court of the Fourth Judicial Circuit of Florida be removed therefrom to this Court.

Order Granting Motion to Remand

[Filed May 27, 1966]

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

No. 66-394-Civ-J

66-2941-E

After due notice, a hearing was held this day on Plaintiff's motion to remand. The Court has considered the arguments of counsel for the respective parties and is of the opinion that this case was improvidently removed to this Court. 1A Moore's Federal Practice Para. 0.167(7) (2nd ed. 1965).

Upon consideration, it is Ordered that Plaintiff's motion to remand is granted and this cause is hereby remanded to the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida; and that a certified copy of this order be mailed by the Clerk of this Court to the Clerk of said Circuit Court.

DONE AND ORDERED at Jacksonville, Florida, this 26th day of May, 1966.

Amended Complaint for Injunction

[Filed May 27, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

IN CHANCERY

No. 66-2941-E

Comes now Jacksonville Terminal Company, Plaintiff, by and through its undersigned attorneys, and respectfully shows to the Court as follows:

1. Plaintiff is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Jacksonville, Duval County, Florida. Plaintiff is engaged in the railroad terminal business at Jacksonville, Florida, where it owns and operates railroad yards and a railway station that provides such service for the following railroads: Atlantic Coast Line Railroad Company; Seaboard Airline Railroad Company; Florida East Coast Railway Company; and Southern Railway System.

2. The Defendants are an unincorporated labor organization; the defendant Ray Moore is Deputy Vice President of the defendant Brotherhood of Railroad Trainmen and generally is in charge of promoting the acts and things hereinafter alleged, other defendants are members of said labor organizations or individuals participating in concert with said organizations in the unlawful acts hereinafter set forth. The members of the above-captioned labor organi-

zation are so numerous as to make it impracticable to bring them all before the Court.

3. This action arises under the Constitution and Laws of the State of Florida.

4. The defendant Brotherhoods are presently on strike against the Florida East Coast Railway Company and in the course of said strike have directed primary and lawful picketing against said railroad at various locations throughout the State of Florida. The plaintiff in 1963 designated a separate entrance in and to its premises for use exclusively by the employees of the Florida East Coast Railway Company.

5. At the present time the plaintiff has collective bargaining contracts with the defendants, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen. Said collective bargaining contracts are presently in full force and effect and there is no dispute thereunder, major or minor, within the meaning of the Railway Labor Act. None of plaintiff's employees are represented by the defendant, Brotherhood of Locomotive Firemen and Enginemen. None of the defendants named individually above are employees of plaintiff and plaintiff further alleges that it has no labor dispute with any of the above named defendants and that no labor demands have been made to plaintiff by any of its employees or their respective bargaining agents.

6. On to-wit, May 4, 1966, the defendant Brotherhoods, their officers, agents and employees commenced picketing and patrolling the premises of the plaintiff at places other than the entrance designated for use by Florida East Coast

Railway employees to the end that plaintiff's premises were completely surrounded. The defendants and their agents, officers and employees have coerced and threatened with physical injury and property damage employees of plaintiff for the purpose of intimidating said employees into refusing to perform the duties of their employment. Said pickets identified themselves as members of the defendant, Brotherhood of Railroad Trainmen and carried placards which state that they are on legal strike against the Florida East Coast Railroad. Plaintiff is informed and believes that all three of the defendant Brotherhoods are on strike against the Florida East Coast Railroad Company and further believes that the defendants other than the Brotherhood of Railroad Trainmen, unless hereby enjoined, will continue or commence picketing of plaintiff's premises.

7. As a result of the acts of defendants the employees of plaintiff, Atlantic Coast Line Railroad Company and the Seaboard Airline Railroad Company, none of whom were or are in any wise involved in the dispute between defendants and the Florida East Coast Railway Company, were induced, encouraged and intimidated thereby to honor said pickets and to refuse to honor their respective work contracts by reporting to work. Plaintiff further alleges that defendants further counseled, advised and persuaded plaintiff's employees to not report to work, even though plaintiff's employees were and are not involved in any dispute with plaintiff regarding their working agreement.

8. As a result of the above and foregoing acts of defendants, plaintiff and other railroads filed an action for injunctive relief and damages in the United States District Court for the Middle District of Florida on May 4, 1966,

being case No. 66-357-Civ-J. As a result of said Complaint the Hon. William A. McRae, Jr., United States District Judge issued a Temporary Restraining Order on May 4, 1966, and thereafter, on May 10, 1966, after a full evidentiary hearing, entered a preliminary injunction enjoining the acts of defendants. Thereafter defendants on to-wit, May 18, 1966, applied for and obtained from the United States Court of Appeals for the Fifth Circuit an Order staying the preliminary injunction. Thereafter said Court sitting in Atlanta, Georgia on May 23, 1966, entered its Order dissolving said preliminary injunction effective eleven o'clock A.M., May 24, 1966, on the grounds that the District Court was without jurisdiction. Plaintiff is informed and verily believes that said picketing will be resumed immediately and their presence is imminent unless this Court grants the relief herein sought.

9. On numerous occasions agents of defendants have stated that the avowed object of said picketing is to force plaintiff to cease furnishing services that are essential to the interchange of freight and passenger traffic with the Florida East Coast Railway Company. Agents of defendants have stated that, if the plaintiff does embargo traffic to and from the Florida East Coast Railway Company, the picketing will not be resumed. For plaintiff to so embargo such traffic would violate the laws of the State of Florida.

10. There is no dispute between plaintiff and its employees or between plaintiff and defendants which is subject to the provisions of the Railway Labor Act.

11. The provisions of the National Labor Relations Act as amended, 29 U. S. C. A. Sec. 141 et seq. are not applicable to the instant situation and the same cannot be said

to be "arguably" within the meaning and application of said Act in that plaintiff and defendants are expressly excepted therefrom. 29 U. S. C. A. Sec. 152(2)(3).

12. The said acts of defendant, if resumed, will:

(a) constitute an illegal secondary boycott of plaintiff's premises;

(b) are an illegal and unwarranted interference with the business and contractual relationships of plaintiff;

(c) threaten to unjustifiably restrain plaintiff from carrying on its business operations;

(d) force plaintiff to violate its statutory duties to furnish transportation services under the laws of the State of Florida and are contrary to the public policy, safety and welfare of the State of Florida as pronounced in the Constitution and laws of the State of Florida;

(e) constitute unlawful restrictions on trade and commerce under the laws of the State of Florida;

(f) will result in the taking of plaintiff's property without due process of law in violation of the Constitution and laws of the State of Florida.

(g) constitute a breach of the peace and an illegal interference with the rights of plaintiff's employees to earn a living.

13. If the threatened picketing is renewed, the plaintiff, its employees, many industries in the State of Florida and the public at large will suffer immediate and irreparable harm all of which appears from the affidavits of Arthur C. Herrington, Alfred G. Johnson, G. G. Jones, and Cecil

Batton, attached to the original complaint and by this reference made a part of this complaint.

14. Jurisdiction of this matter not being proper in the Federal Courts, this Court has jurisdiction of the subject matter and the parties and is the only forum that can grant plaintiff relief and prevent the great and irreparable damages that will flow with certainty from defendants actions. Plaintiff has no other remedy. Far greater injury will be inflicted on plaintiff and the citizens of the State of Florida by denial of the relief sought herein than can result to the defendants by the granting of said relief prayed for herein.

WHEREFORE, Plaintiff prays:

1. That the Court issue a preliminary injunction made permanent on final hearing, and pending hearing and determination of plaintiff's motion for a preliminary injunction the Court issue a temporary restraining order on the grounds that immediate, irreparable injury, loss and damage will result to plaintiff before notice can be served and a hearing had on said Motion for Preliminary Injunction.

2. That the temporary restraining order, preliminary injunction and permanent injunction enjoin and restrain the defendants individually and their officers, agents, servants, employees, representatives, members, attorneys and all other persons acting at the direction of or in active concert or participation with them, and all persons receiving notice of any such orders of the Court from:

(a) Ordering, directing, authorizing, recommending, sanctioning, starting, continuing, permitting, or participating in the patrolling, picketing or blockading of, or the

interference with, the entrances or exits of any kind or description, used by the employees of the Plaintiff and other non-striking employers in connection with their work or in land, buildings, facilities or other property operated, owned or controlled by Plaintiff; provided, however, that this order shall not apply to the reserved entrance located at Bay and Stuart Streets, Jacksonville, Florida, designated for use by Florida East Coast Railway Company employees only.

(b) Causing, compelling or inducing the employees of the Plaintiff or the employees of other non-striking employers who report for work at the Jacksonville Terminal Company to cease performing the duties of their employment.

(c) Interfering with employees of Plaintiff in the performance of their respective duties of their employment by fines or otherwise, or paying any benefit and giving any money or anything of value to any employee of Plaintiff who refuses a lawful order to perform services for Plaintiff in accordance with any collective bargaining agreement covering said services in, on or about Plaintiff's facilities, or support in any way any employee of Plaintiff who refuses to obey a lawful order or request to perform such services.

(d) Interfering with the operations of and employment at the Jacksonville Terminal Company by any force, intimidation, violence or threats thereof.

3. That a day certain be fixed upon which defendants are required to show cause, if any they have, why they should not be permanently enjoined from committing the acts herein above complained of.

4. That a copy of this Complaint and the prayed for temporary restraining order be served on defendants in person.

5. That upon a final hearing of this cause, defendants be permanently enjoined from committing the acts herein above complained of.

6. That, on final hearing, Plaintiff may have damages against said defendants or some of them in such amount as the Court may deem to be just, as well as its costs in this action.

7. That Plaintiff have such other and further relief as the Court may deem proper and just.

Answer

[Filed May 27, 1966]

IN THE

CIRCUIT COURT

FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

Case No. 66-2941-E

Comes now the Brotherhood of Railroad Trainmen, the Order of Railway Conductors and Brakemen, and Brotherhood of Locomotive Firemen and Enginemen, and for answer to the complaint say:

1. Defendants admit the allegations of paragraph 1 of the complaint.

2. Defendants admit that they are railway labor organizations, national in scope, that Ray Moore is Deputy Vice President of the defendant Brotherhood of Railroad Trainmen and deny the remaining allegations not herein specifically admitted.

3. The defendants deny the allegations of paragraph 3, ~~the plaintiff itself having asserted in the United States District Court, the Court of Appeals for the Fifth Circuit and the Supreme Court of the United States that the Federal courts have exclusive jurisdiction over the subject matter of this dispute.~~*

---

* Stricken by order of 6/23/66.

4. The defendant labor organizations admit that they have a so-called major dispute with the Florida East Coast Railway Company and they have directed lawful picketing including the premises of the plaintiff, in connection with that dispute and deny the remaining allegations not herein admitted.

5. Defendants admit that the Brotherhood of Railroad Trainmen and Order of Railway Conductors have working agreements with the plaintiff and the Brotherhood of Locomotive Firemen and Enginemen have no working agreement with the plaintiff. The defendants deny the remaining allegations of paragraph five.

6. Defendant Brotherhood of Railroad Trainmen admits that its members picketed certain locations at the property of the plaintiff commencing at or about 3:05 a.m. on May 4, 1966 and the defendants Order of Railway Conductors and Brakemen and Brotherhood of Locomotive Firemen and Enginemen deny that they or any of their members picketed certain locations aronnd the property of the plaintiff. The defendants further admit that they are on legal strike against the Florida East Coast Railway and have the right under federal law to resume peaceful picketing at locations including those previously picketed at or near the property of the plaintiff. The defendants deny those allegations of paragraph 6 not herein specifically admitted.

7. Defendants admit that the railroad employees of the Atlantic Coast Line Railroad, and Seaboard Air Line Railroad Company, exercised their right under federal law to honor the picket lines of the defendant Brotherhood

of Railway Trainmen and the defendants deny those allegations in paragraph 7 of the complaint not herein specifically admitted.

Further answering the allegations of paragraph 7, defendants say that the plaintiff and its employees are involved in the dispute between the Florida East Coast Railway Company and its employees; that Florida East Coast Railway Company daily runs its trains with striker replacement crews upon the premises of the plaintiff, that plaintiff and its employees render day-to-day services to the Florida East Coast Railway which are essential to its operations, that the facilities of the plaintiff and the services of its employees are an integral part of Florida East Coast Railway operations. Further defendants allege that the plaintiff has made common cause with Florida East Coast Railway Company by assisting its operations during a strike, and that plaintiff's employees desire to, and have the right under applicable federal law, to make common cause with the striking employees of Florida East Coast Railway Company by refusing to render services for Florida East Coast Railway Company. See *Brotherhood of Locomotive Firemen and Enginemen* vs. *Florida East Coast Railway Co.*, 346 F. 2d 673 (5th Cir. 1965).

8. Defendants admit that an almost identical action was instituted by the plaintiff and others in the United States District Court for the Middle District of Florida, Case No. 66-357-Civ-J and subsequent allegations concerning the above specified litigation, the plaintiff alleging exclusive federal jurisdiction over the subject matter of the litigation and the Court of Appeals for the Fifth Circuit concluding that it was without jurisdiction *to enter* an injunction.

9. Defendants admit that defendant Ray Moore is a Deputy Vice President of the defendant Brotherhood of Railroad Trainmen and deny the remainder of paragraph 9 insofar as it pertains to the testimony of defendant Ray Moore.

10. Defendants deny the allegations of paragraph 10 of the complaint and allege that the plaintiff's employees are part of the major dispute existing between defendants and the Florida East Coast Railway Company.

11. Defendants deny the allegations of paragraph 11, 12 and 13 of the plaintiff's complaint and deny all allegations of plaintiff's complaint not specifically admitted by the defendants.

FIRST DEFENSE*

The complaint fails to state a cause of action.

SECOND DEFENSE

The plaintiff and the Florida East Coast Railway Company are common carriers engaged in interstate commerce, and are subject to the Interstate Commerce Act (49 USC §1, et seq.). Both are subject to the Railway Labor Act, 45 USC §151, et seq.

The plaintiff's business, the defendants' conduct, and the relationship between the parties all involve interstate commerce, all are regulated by acts of the United States Congress, and all involve areas of jurisprudence preempted by federal legislation in which state regulation can play no part (with the one exception of violence, not here alleged). *See* for instance: *San Diego Council* v. *Garmon*, 359 US 236, 79 S. Ct. 773 (1959); *Teamsters Union* v. *Mor-*

* Denied by order of 6/23/66.

ton, 377 U. S. 252, 12 L. Ed. 2d 280 (1965); *United Mine Workers* v. *Gibbs*, 16 L. Ed. 2d 218 (1966).

THIRD DEFENSE

The defendants and the Florida East Coast Railway Company are engaged in a "major dispute" under the terms of the Railway Labor Act, 45 USC §151, et seq. involving unilateral changes by Florida East Coast Railway in rules, rates of pay and working conditions. The procedures of the Railway Labor Act have been exhausted and the parties are entitled to resort to "self-help" (*BLE* v. *B & O*, 372 US 284 (1963)) to the extent permitted and within the limitations of federal law, and the conduct complained of in the amended complaint constitutes "self-help" under the Railway Labor Act.

FOURTH DEFENSE

~~It has been judicially determined in litigation between the parties to this cause that the conduct of defendants here involved "arises out of a labor dispute" within the meaning of applicable federal law, and plaintiff is estopped to assert to the contrary in this cause. *Atlantic Coast Line Railroad Comany, et al.* vs. *Brotherhood of Raiload Trainmen, et al.*, Case No. 22659, United States Court of Appeals For the Fifth Circuit, decided May 24, 1966.~~*

FIFTH DEFENSE: FIRST PART

The conduct of the defendants is legal conduct under applicable federal law.

(a) The employees of connecting carriers have a right under federal law to refuse to render service to a struck

* Stricken by order of 6/23/66.

carrier, to participate in and become a part of the major dispute with the struck carrier, and may make common cause with their brother employees on the struck carrier. *BLF&E* vs. *FEC*, 346 F. 2d 673.

(b) Even if the conduct in question might constitute a "secondary boycott", such conduct is not prohibited conduct under the Railway Labor Act. *I. B. E. W.* vs. *N. L. R. B.*, 350 F. 2d 791 (D. C. Cir. 1965).

(c) If defendants' conduct is subject to regulation under the National Labor Relations Act, rather than the Railway Labor Act, it does not constitute illegal conduct under either act. It is lawful and proper for the striking employees of Florida East Coast Railway to make a peaceful and orderly appeal "to neutral employees whose tasks aid the employer's everyday operations", *Local 761, I. U. of E. R. & M. Workers* vs. *N. L. R. B.*, 366 U. S. 667, or to persons who are "contributing to the operations which the strike is endeavoring to halt" by furnishing "day-to-day service essential to the employer's regular operations", *United Steelworkers* v. *N. L. R. B.*, 376 U. S. 492.

FIFTH DEFENSE: SECOND PART

State courts are preempted from determining, even under applicable federal law, whether or not the conduct in question is legal or illegal conduct. *Local Union No. 25* v. *New York, New Haven and Hartford Railroad Co.* (1956), 350 U. S. 155, 76 S. Ct. 227; *San Diego Council* vs. *Garmon*, 359 U. S. 236; *Scherer & Sons, Inc.* vs. *International Ladies Garment Workers Union*, 142 So. 2d 290, 1962; *United Steelworkers* vs. *Nubar Tool and Eng. Co.*, 148 So. 2d 45 (2nd Dist. 1962); *Local 675, Operating Engineers* vs. *Meekings*, 175 So. 2d 59 (2nd Dist. 1965). Cf.,

Manion, et al. vs. *Kansas City Terminal Railway Co.* (1957), 353 U. S. 927, reversing state court injunction reported at 297 S. W. 2d 31.

Sixth Defense

The provisions of the Norris-LaGuardia Act, 29 USC §101, et seq. are applicable to deprive this court of jurisdiction to enter an injunction in this case.

Seventh Defense

The conduct of the defendants is protected by the free speech clause of the First Amendment and the due process clause of the Fourteenth Amendment of the United States Constitution. *Thornhill* v. *State of Alabama* (1940), 310 U. S. 88, 60 S. Ct. 879.

Eighth Defense

The conduct of the defendants would not constitute an illegal secondary boycott under Florida law, even if said law applied to this case.

Wherefore, defendants respectfully pray that this Court dismiss the plaintiff's complaint for an injunction and damages, with prejudice.

Defendant's Exhibit No. A

[Order for Preliminary Injunction in Case No. 63-16-A, *FEC Ry. Co.* v. *Jacksonville Terminal Co., et al.*]

IN THE

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

FLORIDA EAST COAST RAILWAY COMPANY, a corporation,

Plaintiff,

—VS.—

JACKSONVILLE TERMINAL COMPANY, a corporation, ATLANTIC COAST LINE RAILROAD COMPANY, a corporation, SEABOARD AIR LINE RAILROAD COMPANY, a corporation, SOUTHERN RAILWAY COMPANY, a corporation, and GEORGIA SOUTHERN AND FLORIDA RAILWAY COMPANY, a corporation,

Defendants.

ORDER FOR PRELIMINARY INJUNCTION

Upon consideration of the application by Plaintiff, Florida East Coast Railway Company, a corporation, for a preliminary injunction, upon Plaintiff's verified Complaint for Injunctive and Other Relief, and upon the evidence introduced and argument submitted by all parties, the Court makes the following findings of fact and conclu-

sions of law after hearing with due notice on January 28 and 29, 1963.

Findings of Fact

1. Plaintiff and Defendants Jacksonville Terminal Company, a corporation (hereinafter called Terminal Company), Atlantic Coast Line Railroad Company, a corporation (hereinafter called Coast Line), Seaboard Air Line Railroad Company, a corporation (hereinafter called Seaboard), Southern Railway Company, a corporation (hereinafter called Southern), and Georgia Southern and Florida Railway Company, a corporation, are common carriers engaged in the transportation of passengers or property by railroad and each is a connecting line with the others, within the meaning and application of the Interstate Commerce Act, Title 49, United States Code, Section 1, et seq.

2. The parties hereto other than the defendant Terminal Company are the joint owners of Defendant Terminal Company and, prior to January 23, 1963, had and enjoyed the equal right to use in common, for the accommodation of their passenger and freight traffic in Jacksonville, Florida, the tracks, yards, and switching and interchange facilities owned by Defendant Terminal Company and the services provided by Defendant Terminal Company, including car service as defined by Title 49, United States Code, Sections 1(10) and 1(11), as part of the normal and necessary course of their business and operation. These rights existed, and still do exist, by virtue of the Operating and Guaranty Agreement executed on December 1, 1947, by all parties or by their predecessors in interest, pursuant to authority granted by the Interstate Commerce Commission of the United States and by

United States District Court for the Southern District of Florida, and by virtue of the provisions of the Interstate Commerce Act, Title 49, United States Code, Section 1, et seq.

3. On the occasions hereinafter mentioned, Plaintiff presented, or desired to present, as part of the normal and necessary course of its business and operation, a substantial number of empty railway cars to Defendants Terminal Company, Coast Line, Seaboard and Southern for car service, including interchange, by means of the tracks, yards, switching and interchange facilities and services of Defendant Terminal Company, and the events hereinafter mentioned took place:

(a) On January 23, 1963, Defendant Terminal Company refused to permit Plaintiff to deliver cars to the tracks, yards, and interchange and switching facilities of Defendant Terminal Company and thereafter notified Plaintiff that Defendant Terminal Company will continue to prevent Plaintiff from delivering cars to the tracks, yards, and interchange and switching facilities of the Terminal Company;

(b) On January 24, 1963, Defendants Coast Line and Seaboard notified Defendant Terminal Company that it was their position that Defendant Terminal Company should not accept or permit delivery of cars by Plaintiff to the facilities of Defendant Terminal Company. Defendants Coast Line and Seaboard thereafter persisted and still do persist in that position;

(c) Thereafter, Defendants Coast Line and Seaboard gave notice that, even if Defendant Terminal Company should permit Plaintiff to deliver cars to the facilities of

Defendant Terminal Company for interchange with Defendants Coast Line and Seaboard, they would refuse car service to Plaintiff and would refuse to accept such cars at their interchange facilities;

(d) On January 25, 1963, Defendant Terminal Company refused to permit Plaintiff to deliver cars to the tracks, yards, and interchange and switching facilities of Defendant Southern, although Defendant Southern was ready, willing and able to accept and desired to accept delivery of such cars and otherwise to provide Plaintiff with car service.

4. Defendant Terminal Company refused and continues to refuse to permit Plaintiff to deliver cars to the facilities of Defendant Terminal Company for interchange and car service, and Defendants Coast Line and Seaboard refused and continue to refuse to accept such cars from Plaintiff by means of the facilities of Defendant Terminal Company. The management of Defendants Terminal Company, Coast Line and Seaboard have refused because they apprehend that (1) the employees of Defendant Terminal Company will refuse to perform the duties of their employment incident to rendition by Defendant Terminal Company of car service, including interchange, in respect of cars presented for that purpose by Plaintiff; and that (2) the striking employees of Plaintiff will picket the premises of Defendant Terminal Company for the purpose of protesting the rendition of car service, including interchange, by employees of Defendants Terminal Company, Coast Line and Seaboard, in respect of cars presented by Plaintiff for that purpose, with the result that the contract employees of Defendants Terminal Company, Coast Line and Seaboard

will refuse to enter upon the premises of Defendant Terminal Company and thereby will cause disruption and suspension of all operations of those Defendants upon the Terminal Company premises and facilities.

5. The evidence does not support a finding that Defendants Terminal Company, Coast Line and Seaboard conducted themselves and continue to conduct themselves as aforesaid because of the alleged incompetency of Plaintiff's employees to operate trains upon the facilities of Defendant Terminal Company under applicable standards uniformly enforced by Defendant Terminal Company; nor does the evidence support a finding that these Defendants conducted themselves and continue to conduct themselves as aforesaid because they believe that the embargo placed upon Plaintiff in respect of freight traffic is applicable to prohibit car service in respect of empty cars presented and desired to be presented by Plaintiff as aforesaid for car service, including interchange. It clearly appears that the conduct of these Defendants, as hereinabove described, would have been the same even if they had considered that Plaintiff's employees were competent.

6. As the result of the acts and conduct hereinabove described, Plaintiff has been prevented from using the tracks, yards, and switching and interchange facilities owned by Defendant Terminal Company as well as the services provided by Defendant Terminal Company, including car service. Plaintiff has been prevented from interchanging cars with the defendant railroads and from carrying on a part of its normal and necessary course of business and operation by means of the facilities of Defendant Terminal Company and the services of Defendants

Terminal Company, Coast Line, Seaboard and Southern, while the Defendants have continued in all other respects to use the facilities of Defendant Terminal Company and the services of each other and otherwise to carry on their normal course of business and operations.

7. It is alleged in the complaint and is undisputed by all counsel as follows:

On Thursday, January 24, 1963, counsel for Defendants Coast Line and Seaboard notified Plaintiff that on Friday, January 25, 1963, Defendants Coast Line and Seaboard would apply to this Court for an order temporarily enjoining and restraining Plaintiff from insisting upon its right to use the facilities of Defendant Terminal Company and enjoining and restraining Defendant Terminal Company from permitting Plaintiff to use its facilities in providing car service and for other purposes. Thereafter, Defendants Coast Line and Seaboard served on counsel for Plaintiff a copy of a proposed complaint for injunction, accompanied by an affidavit by Philip J. Lee, Vice-President of Defendant Coast Line; however, before 11:00 A. M. on January 25, 1963, the time set for the hearing before this Court, counsel for Defendants Coast Line and Seaboard notified counsel for Plaintiff that the complaint would not be filed and that the hearing would not be held. Thus, instead of presenting to this Court or to any other tribunal their contentions that there is a legal basis for refusing to permit Plaintiff to use the facilities of Defendant Terminal Company and the services of Defendants Terminal Company, Coast Line and Seaboard, these defendants committed and engaged in the acts and conduct hereinabove set forth. Thereby such Defendants terminated a part of

Plaintiff's normal and necessary course of business and operation with them and with Defendant Southern, and they deprived Plaintiff of all opportunity to have the legality and propriety of such conduct determined by the Court before being subjected to the consequences of such conduct.

8. Plaintiff now has on its tracks and in its yards a substantial number of empty cars owned by other persons, including common carriers, which cars Plaintiff is desirous of presenting, but has been prevented from presenting, for car service, including interchange, by use of the facilities of Defendant Terminal Company and the services of Defendants Terminal Company, Coast Line, Seaboard and Southern. With respect to those cars, Plaintiff is subjected to large and unnecessary per diem charges. Moreover, although Plaintiff has been prevented from using the facilities and services of Defendant Terminal Company, of which Plaintiff is one of the joint owners, Plaintiff remains obligated, under the Operating and Guaranty Agreement and under the instruments of guaranty endorsed upon the bonds issued by Defendant Terminal Company, to make substantial and periodic payments on account of the interest and costs incurred in the retirement of such bonds.

9. Plaintiff has been subjected to irreparable injury for which no adequate remedy at law exists.

10. A preliminary injunction is necessary to restore the parties to the positions and conditions existing prior to the commission of the acts and conduct hereinabove described and to maintain those conditions during the pendency of this action and until final determination of the controversy herein.

Conclusions of Law

1. The Court has jurisdiction of the parties and of the subject matter of this cause by virtue of Title 28, United States Code, Section 1337, and the Interstate Commerce Act, Title 49, United States Code, Section 1, et seq.

2. By reason of the Operating and Guaranty Agreement and by reason of Title 49, United States Code, Sections 1 and 3, it was and remains the duty of the Defendants

(a) to furnish adequate car service to Plaintiff;

(b) to establish, observe and enforce as to Plaintiff just and reasonable rules, regulations and practices with respect to car service;

(c) not to observe and enforce as against Plaintiff any unjust or unreasonable rule, regulation and practice with respect to car service;

(d) to afford to Plaintiff all reasonable, proper and equal facilities for the interchange of traffic between the respective lines of the parties hereto and for the receiving, forwarding and delivering of property to or from connecting lines; and

(e) not to give or cause any undue or unreasonable preference or advantage to any party or parties hereto or to any other person in any respect whatsoever; and

(f) to accord to Plaintiff the equal right to use in common with the Defendants, without partiality or discrimination, the tracks, yards, and switching and interchange facilities of Defendant Terminal Company and the services of Defendants Terminal Company, Coast Line and Seaboard, including car service.

3. The acts and conduct of Defendants Terminal Company, Coast Line and Seaboard hereinabove described constituted direct and substantial violations of their duties and of Plaintiff's rights under the Operating and Guaranty Agreement and Title 49, United States Code, Sections 1 and 3.

4. Plaintiff has no adequate remedy at law.

5. The acts and conduct of Defendants Terminal Company, Coast Line and Seaboard have resulted in direct, immediate and irreparable injury to Plaintiff, and Plaintiff is therefore entitled to the equitable relief prayed for.

6. The equitable relief granted to Plaintiff is necessary in order to avoid a multiplicity of suits.

7. A preliminary injunction is necessary to prevent irreparable injury to Plaintiff and to restore the parties to the conditions existing prior to the commission of such wrongful actions and conduct.

8. The work stoppage and picketing threatened by representatives of the employees of Defendant Terminal Company and of Plaintiff's striking employees do not constitute justifiable cause for the deprivation of Plaintiff's rights. The Court recognized the magnitude of the consequences to Defendants and to the public that may result if the threatened work stoppage and picketing were to occur. If Defendants and the public suffer the consequences apprehended by Defendants Terminal Company, Coast Line and Seaboard, then such consequences will be the result of such work stoppage and picketing and not the result of the lawful exercise by Plaintiff of the rights

hereby enforced. The Court is unwilling to accept such threatened action as just cause for denying the relief to which Plaintiff is otherwise entitled. The Court nevertheless considers it necessary to afford the interested Defendants an opportunity, before the injunctive relief hereinafter granted becomes effective, to take such action as those Defendants consider appropriate and necessary in order to protect their interests and the public interest against the consequences of the threatened action. The effectiveness of the injunctive relief will therefore be stayed until 1:00 o'clock P. M., Thursday, January 31, 1963. It is, therefore,

ORDERED AND DECREED:

1. That Defendants Jacksonville Terminal Company, a corporation, Atlantic Coast Line Railroad Company, a corporation, and Seaboard Air Line Railroad Company, a corporation, and their officers, agents, servants and employees be enjoined and restrained, during the pendency of this proceeding and until final determination of the controversy herein (a) from refusing to recognize and give effect to the equal right of Florida East Coast Railway Company, a corporation, Plaintiff, to use in common the tracks, yards, and switching and interchange facilities owned by Defendant Terminal Company and to use without discrimination the services, including car service, of Defendants Terminal Company, Coast Line and Seaboard; (b) from refusing to accord to Plaintiff the services of all officers and employees of Defendant Terminal Company without partiality or discrimination as between Plaintiff and any other; (c) from refusing adequate car service to Plaintiff; (d) from enforcing as against Plaintiff any un-

just or unreasonable practice in respect of car service; (e) from refusing to afford to Plaintiff all reasonable, proper and equal facilities for the interchange of cars between Plaintiff's line and the respective lines of the Defendants; and (f) from giving or causing any undue or unreasonable preference or advantage to any Defendant: Provided, however, that in presenting cars for car service, including interchange, Plaintiff shall man such cars, or cuts or trains of cars, with sufficient personnel who, under applicable standards uniformly enforced by Defendant Terminal Company, are competent to operate the same as may be necessary upon the facilities of Defendant Terminal Company.

2. That this writ of injunction shall be effective as of 1:00 o'clock P. M., Thursday, January 31, 1963, upon Plaintiff's furnishing a bond in the amount of $10,000.00, pursuant to Rule 65c, Rules of Civil Procedure, in a form to be approved by the Clerk.

3. That jurisdiction of this cause is retained by the Court for the purpose of making final disposition of the controversy herein.

DONE AND ORDERED at Jacksonville, Florida, this January 30, 1963.

Original signed:

/s/ WM. A. MCRAE, JR.

Judge.

Defendant's Exhibit No. 1

[Complaint in Case No. 66-357, *ACL R.R. Co., et al.* v. *BRT, et al.*]

IN THE

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

ATLANTIC COAST LINE RAILROAD COMPANY, a corporation, JACKSONVILLE TERMINAL COMPANY, a corporation, and SEABOARD AIR LINE RAILROAD COMPANY, a corporation,

Plaintiffs,

—VS—

BROTHERHOOD OF RAILROAD TRAINMEN, an unincorporated association in its own right and as representative of its membership and Ray Moore and Lowell Kennedy, individually and as officials of said brotherhood; and the members of said organization;

ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN, an unincorporated association in its own right and as representative of its membership and T. C. Boland, individually and as an official of said brotherhood; and the members of said organization;

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, an unincorporated association in its own right and as representative of its membership and J. E. Eason, individually and as an official of said brotherhood; and the members of said organization,

Defendants.

---

1. This Court has jurisdiction of this suit because this is an action arising under the Constitution and laws of the United States regulating interstate commerce, and the amount in controversy exceeds the sum of $10,000.00, exclusive of interest and costs. The jurisdiction of this Court is specifically invoked under Sections 1331 and 1337 of the Judicial Code (28 U.S.C. Sections 1331 and 1337), the Interstate Commerce Act (49 U.S.C. Section 1, et seq.) and Rule 23(a) of the Federal Rules of Civil Procedure.

2. Plaintiff Atlantic Coast Line Railroad Company (hereinafter called "Coast Line") is a corporation organized under the laws of the State of Virginia and is authorized to do business in the State of Florida. Plaintiff Seaboard Air Line Railroad Company (hereinafter called "Seaboard") is a corporation organized under the laws of the State of Virginia and is authorized to do business in the State of Florida. Jacksonville Terminal Company (hereinafter called Terminal Company) is a railroad corporation organized and existing under the laws of the State of Florida and operates and maintains a railroad terminal, yards and passenger station in the City of Jacksonville, Duval County, Florida, and, as a common carrier, is likewise subject to the Interstate Commerce Act. Plaintiffs, Coast Line and Seaboard, hold themselves out, and are required by law, to provide common carrier transportation service to the public in accordance with their respective tariffs, schedules, etc., on file with the Interstate Commerce Commission and the Florida Public Utilities Commission. Said Plaintiffs collectively operate in many states and together with other railroads provide regular and extensive

service between points in Florida and the rest of the United States and adjacent foreign countries and handle extensive freight, passengers, mail and express traffic between many points requiring joint service to and from the State of Florida over the facilities of the Jacksonville Terminal Company, a Florida corporation.

3. Plaintiffs, Coast Line and Seaboard, as common carriers, serve various communities, industries, and plants by furnishing to said communities, industries and plants the supplies and materials vital for their existence through freight, including perishables, passenger and mail service. Plaintiff Terminal Companies' facility is operated in order to effect and is essential to the physical interchange of railroad business between the *Atlantic Coast Line Railroad Company, Seaboard Air Line Railroad Company* and various other railroads, who, collectively, operate in many states, and together with other railroads provide regular and extensive service between points in Florida and the rest of the United States, and handle extensive freight, passenger, mail and express traffic between many points requiring joint service through the State of Florida by way of the plaintiff Terminal Company. Said operation of the Terminal Company facility is governed by an Operating and Guaranty Agreement by and between the foregoing and various other railroads which was approved and authorized by the Interstate Commerce Commission on or about November 19, 1947. Plaintiffs allege that the interruption of their operation will be in violation of their constitutional and property rights. Plaintiffs will be unable to handle the daily shipments of U. S. mail, baggage, express, fruits, fresh vegetables, citrus fruits and other food and other articles of commerce, as well as passenger

service. Such interruption will create irreparable damage not only to plaintiffs but to the United States Government and countless businesses, industries, individuals and said operating railroads. The interruption of plaintiffs' facilities and operations will be contrary to the purpose and requirements of The Interstate Commerce Act, 49 USC Sections 1(4) and 1(11), and comparable provisions of the Florida Statutes and will prevent plaintiffs from fulfilling their common carrier obligations to the public. The failure to provide common carrier services required by law by subject plaintiffs to damages, fines and penalties.

4. Defendants are unincorporated labor organizations and other defendants are either members of said labor organizations holding the offices captioned above or individuals participating in concert with said organizations in the unlawful acts hereinafter set forth. The members of the above captioned labor organizations are so numerous as to make it impracticable to bring them all before the Court.

5. The defendants are employed or were formerly employed by the Florida East Coast Railway Company and are engaging in a dispute with the Florida East Coast Railway Company. Neither plaintiff nor any of its employees are involved in said dispute. The defendant brotherhoods are on strike against the Florida East Coast Railway Company, and in the course of said strike are picketing against said railroad at various locations in the State of Florida.

6. On May 4, 1966, at or about 3:00 A.M., the defendant brotherhoods, their officers, agents, representatives and members and others herein named defendants commenced

picketing the premises of the plaintiff, Jacksonville Terminal Company, at places other than the entrance designated for entrance for Florida East Coast Railway employees only, and that as a result thereof plaintiff's employees, who are not in any way involved in said dispute, have been induced thereby to refuse and have refused to report for duty as employees of plaintiff and have refused to perform services for plaintiff. Said defendants have also commenced picketing at various places which are under the sole control and operation of the Coast Line and Seaboard. There is no justification for the defendant to picket at any other place than those designated for the entrance of Florida East Coast Railway employees only, as the said Florida East Coast Railway Company has substantial facilities in St. Augustine, Florida, as well as throughout the State of Florida, and the defendants can convey their message to the proper interested persons without disturbing operations of plaintiff's railroad terminal yard and passenger station.

7. The unlawful work stoppage, slowdown and interruption of the plaintiff railroads resulting from the acts of defendants as above alleged unless restrained or enjoined by this Court, will interfere with the movement of passengers, mail, freight and express lading, including products of industry and food and other lading essential to the public health and safety in interstate and intrastate over the Coast Line and Seaboard lines and the Terminal Company connecting lines of railroad, contrary to the public interest and national welfare. If said unlawful acts continue, they will obstruct, hinder, and delay the interstate commerce over railroads and connecting lines. Such unlawful acts, if continued, will also cause irreparable dam-

age to plaintiffs in the following particulars: substantial monetary amounts in direct wage costs, losses from using supervisory personnel to perform the aforesaid duties unlawfully refused by defendants, and revenue losses arising from plaintiffs being prevented from adequately servicing businesses and industries.

8. The Norris-LaGuardia Act (29 USC §101, *et seq.*) does not apply. There is no labor dispute here involved in this case between the plaintiffs and defendants, nor do plaintiffs and defendants stand in a relation of employer and employee. Plaintiffs are not involved in any dispute with the defendants. Any claim that the actions of the defendants constitute merely "patrolling" within the meaning of 29 USC Section 104 is a pretense or a method of involving fraud within the meaning of said statute. Defendants' purpose and plan is not simply to advise the public of their dispute with Florida East Coast Railway Company but rather to prevent effectively the use of Terminal Companies' facility by plaintiffs and their respective employees in the pursuit of plaintiffs' respective businesses.

9. Plaintiff alleges that unless a temporary restraining order and injunction is issued as prayed herein, immediate, substantial, and irreparable injury will result in and to the property and business of plaintiff, and to the traveling and shipping public that they are required by law to serve. Plaintiffs have no speedy or adequate remedy at law. Plaintiff is informed and believes that the aforementioned illegal actions of the defendants will be continued unless the relief prayed for is granted. Far greater injury will be inflicted on the plaintiff by denial of the relief sought than can result to the defendants by the granting of said relief.

WHEREFORE, PLAINTIFF PRAYS:

1. That the Court issue a preliminary injunction made permanent on final hearing, and pending hearing and determination of plaintiff's motion for a preliminary injunction, the Court issue a temporary restraining order on the grounds that immediate, irreparable injury, loss and damage will result to plaintiffs before notice can be served and a hearing had on said Motion for Preliminary Injunction, all as more fully appears from this verified complaint and the affidavits of Philip J. Lee, M. C. Jennette and W. E. Satterwhite, attached to the Motion for Preliminary Injunction filed herewith.

2. That the temporary restraining order, preliminary injunction and permanent injunction enjoin and restrain the defendants individually and as officers, agents, servants, employees, representatives, members, attorneys and all other persons acting at the direction of or in active concert or participation with them, and all persons receiving notice of any such orders of the Court from:

(a) ordering, directing, authorizing, recommending, sanctioning, starting, continuing, permitting, or participating in the patrolling, picketing or blockading of, or the interference with, the entrances or exits of any kind or description, used by the employees of the plaintiffs in connection with their work or in land, buildings, facilities or other property operated, owned or controlled by plaintiffs.

(b) causing, compelling or inducing the employees of the plaintiffs to cease performing the duties of their employment in connection with the operation of the various plaintiffs particularly with respect to the transportation of passengers or to the receiving, transportation and han-

dling of goods of any shipper, receiver or common carrier, or causing, compelling or inducing the plaintiffs, or its employees or representatives to fail to provide facilities for the transportation of property belonging to any shipper, receiver, or common carrier, or to fail to carry, transmit or deliver the United States mail, or to fail to provide transportation for passengers, or causing, compelling or inducing the plaintiff or its employees to fail to perform their obligations as required by law;

(c) causing, compelling and inducing the plaintiffs, or its employees or representatives, to fail to perform any of their lawful duties, including the operating of locomotives, cars, or trains, or to interfere in any way with the delivery, loading, unloading, dispatch or movement of any of plaintiffs' rolling stock, engines, cars, equipment or trains or any of the contents or any of the passengers thereof;

(d) interfering with employees of plaintiffs in the performance of their respective duties of their employment by fines or otherwise, or paying any benefit and giving any money or anything of value to any employee of plaintiffs who refuse a lawful order to perform services for plaintiffs in accordance with any collective bargaining agreement covering said services in, on or about plaintiffs' facilities, or supporting in any way any employee of plaintiffs who refuses to obey a lawful order or request to perform such services.

3. That the Court enter a mandatory injunction requiring the defendants or any of them, until further order of the Court, to withdraw and countermand any order, directive, recommendation, request or other advice, heretofore issued by any of defendants' officers, agents, attorneys, or

members, asking any of plaintiffs' employees not to render service in connection with the operation of the various plaintiffs.

4. That, on final hearing, plaintiffs may have damages against said defendants or some of them in such amount as the Court may be to be just, as well as their costs in this action.

5. That the plaintiffs have such other and further relief as the Court may deem proper.

ATLANTIC COAST LINE RAILROAD COMPANY
Rogers, Towers, Bailey, Jones & Gay
Attorneys for Atlantic Coast Line Railroad Company

JACKSONVILLE TERMINAL COMPANY
McCarthy, Adams & Foote
Attorneys for Jacksonville Terminal Company

SEABOARD AIR LINE RAILROAD COMPANY
Cox, Grissett & Webb
Attorneys for Seaboard Air Line Railroad Company

Defendant's Exhibit No. 2

[Order for Preliminary Injunction in Case No. 66-357, ACL R.R. Co., et al. v. BRT, et al.—Filed May 10, 1966]

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

[TITLE OMITTED]

Upon consideration of the application by plaintiffs, Atlantic Coast Line Railroad Company, Jacksonville Terminal Company and Seaboard Air Line Railroad Company for a preliminary injunction, and upon plaintiffs' verified Complaint for injunction and upon evidence introduced at the hearing and upon arguments submitted by all parties, the Court makes the following findings of fact and conclusions of law after hearing, with due notice, on May 9, 1966:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Plaintiffs are common carriers engaged in the transportation of passengers and property by railroad and each is a connecting line with the other, within the meaning and application of the Interstate Commerce Act, 49 U.S.C. § 1.

2. Defendants are unincorporated labor unions, individuals who are members and officers of the defendant labor unions and the members of the defendant labor unions.

3. Since April 24, 1966, all of the defendant unions have been on strike against the Florida East Coast Railway Company. That strike has not been resolved.

4. During the early morning hours of May 4, 1966, defendant Brotherhood of Railroad Trainmen and its officers and members began to picket the premises of plaintiff Jacksonville Terminal Company at numerous places. Defendants Order of Railway Conductors and Brakemen and Brotherhood of Locomotive Firemen and Enginemen have made threats to engage in similar conduct.

5. The picketing in question consisted of carrying placards to the effect that the Brotherhood of Railroad Trainmen is on strike against the Florida East Coast Railway Company. The placards requested that other railroad men not cross the picket lines.

6. As a result of the picketing, hundreds of employees of the plaintiffs refused to report for work and did not report for work until the picket lines were removed as a result of entry of a temporary restraining order at 4:30 o'clock P.M. on Wednesday, May 4, 1966.

7. Plaintiff Jacksonville Terminal Company owns and operates a rail terminal, rail interchange, and the only passenger station located in Jacksonville, Florida. Jacksonville Terminal Company serves the government of the United States under mail contract, the Atlantic Coast Line Railroad Company, the Seaboard Air Line Railroad Company, the Southern Railway Company, the Georgia, Southern & Florida Railway Company, the Florida East Coast Railway Company and numerous shippers whose facilities

are located adjacent to property of Jacksonville Terminal Company. The bulk of mail entering and leaving the State of Florida is handled in and processed by Jacksonville Terminal Company. All passenger service of Atlantic Coast Line Railroad Company entering and leaving the State of Florida passes through Jacksonville Terminal Company. All of the passenger traffic of Seaboard Air Line Railroad Company coming into Jacksonville, Florida, and substantially all of the freight traffic of Seaboard Air Line Railroad Company coming into and leaving Duval County, Florida, is serviced by Jacksonville Terminal Company facilities.

8. The threatened activities of defendants, unless restrained, will cause incalculable damage upon innocent parties other than plaintiffs, in that most of the Atlantic Coast Line passenger service into or out of the State of Florida will be eliminated; most of the passenger traffic of Seaboard Air Line Railroad Company into and out of the City of Jacksonville, Florida, will be eliminated; most of the freight traffic of Atlantic Coast Line Railroad Company into and out of the State of Florida and substantially all of the freight traffic of Seaboard Air Line Railroad Company into and out of Duval County, Florida, will be eliminated—all to the great detriment of the general public; that the transportation and processing of the mails into and out of the State of Florida will be severely obstructed and hampered; that many rail passengers will be prevented from traveling by rail; and that military bases served by plaintiffs will be adversely affected.

9. The prohibitions of the Norris-LaGuardia Act, 29 U.S.C. § 104, are not applicable to the instant proceeding

and do not deprive the Court of jurisdiction to enter the preliminary injunction sought by plaintiffs herein.

10. Plaintiffs have been subjected to irreparable injury for which no adequate remedy at law exists.

11. A preliminary injunction is necessary to restore the parties to the positions and conditions existing prior to the commission of the acts of the defendants and to maintain those conditions during the pendency of this action and until final determination of the controversy herein.

Upon consideration, it is

ORDERED AND DECREED, until further Order of this Court:

1. That defendants, their officers, agents, servants, employees, representatives, attorneys, members and all of the persons acting at the direction of or in active concert or participation with them, and all persons receiving notice of this Order, be and they are hereby enjoined from:

(a) Ordering, directing, authorizing, recommending, sanctioning, starting, continuing, permitting, or participating in the patrolling, picketing or blockading of, or the interference with, the entrances or exits of any kind or descriptions, used by the employees of the plaintiffs in connection with their work or in land, buildings, facilities or other property operated, owned or controlled by plaintiffs; provided, however, that the present order shall not apply to the gate located at Bay and Stuart Streets designated for use by Florida East Coast Railway Company employees;

(b) Causing, compelling or inducing the employees of the plaintiffs to cease performing the duties of their em-

ployment in connection with the operation of the various plaintiffs, particularly with respect to the transportation of passengers or to the receiving, transportation and handling of goods of any shipper, receiver or common carrier, or causing, compelling or inducing the plaintiffs or their employees or representatives to fail to provide facilities for the transportation of property belonging to any shipper, receiver, or common carrier, or fail to carry, transmit or deliver the United States mail, or to fail to provide transportation for passengers, or causing, compelling or inducing the plaintiffs or their employees to fail to perform their obligations as required by law;

(c) Causing, compelling and inducing the plaintiffs, or their employees or representatives, to fail to perform any of their lawful duties, including the operation of locomotives, cars, or trains, or to interfere in any way with the delivery, loading, unloading, dispatch or movement of any of plaintiffs' rolling stock, engines, cars, equipment or trains or any of the contents or any of the passengers thereof;

(d) Interfering with employees of plaintiffs in the performance of their respective duties of their employment by fines or otherwise, or paying any benefit and giving any money or anything of value to any employee of plaintiffs who refuse a lawful order to perform services for plaintiffs in connection with any collective bargaining agreement covering said services in, on, or about plaintiffs' facilities, or supporting in any way any employee of plaintiffs who refuses to obey a lawful order or request to perform such services.

2. This Writ of Injunction shall be effective at twelve o'clock noon, May 10, 1966, upon the furnishing of a bond in the amount of $25,000.00.

3. Jurisdiction of this cause is retained by the Court for the purpose of making final disposition of the controversy herein.

DONE AND ORDERED at Jacksonville, Florida, this 10th day of May, 1966.

/s/ WM. A. MCRAE, JR.
Judge

Copies to counsel

Defendant's Exhibit No. 3

[Order of U. S. Court of Appeals, 5th Circuit, in *BLT v. ACL R.R. Co., et al.*, No. 23,659—Filed May 24, 1966]

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 23659

BROTHERHOOD OF RAILROAD TRAINMEN, *et al.*,
Appellants,

—v.—

ATLANTIC COAST LINE RAILROAD COMPANY, *et al.*,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

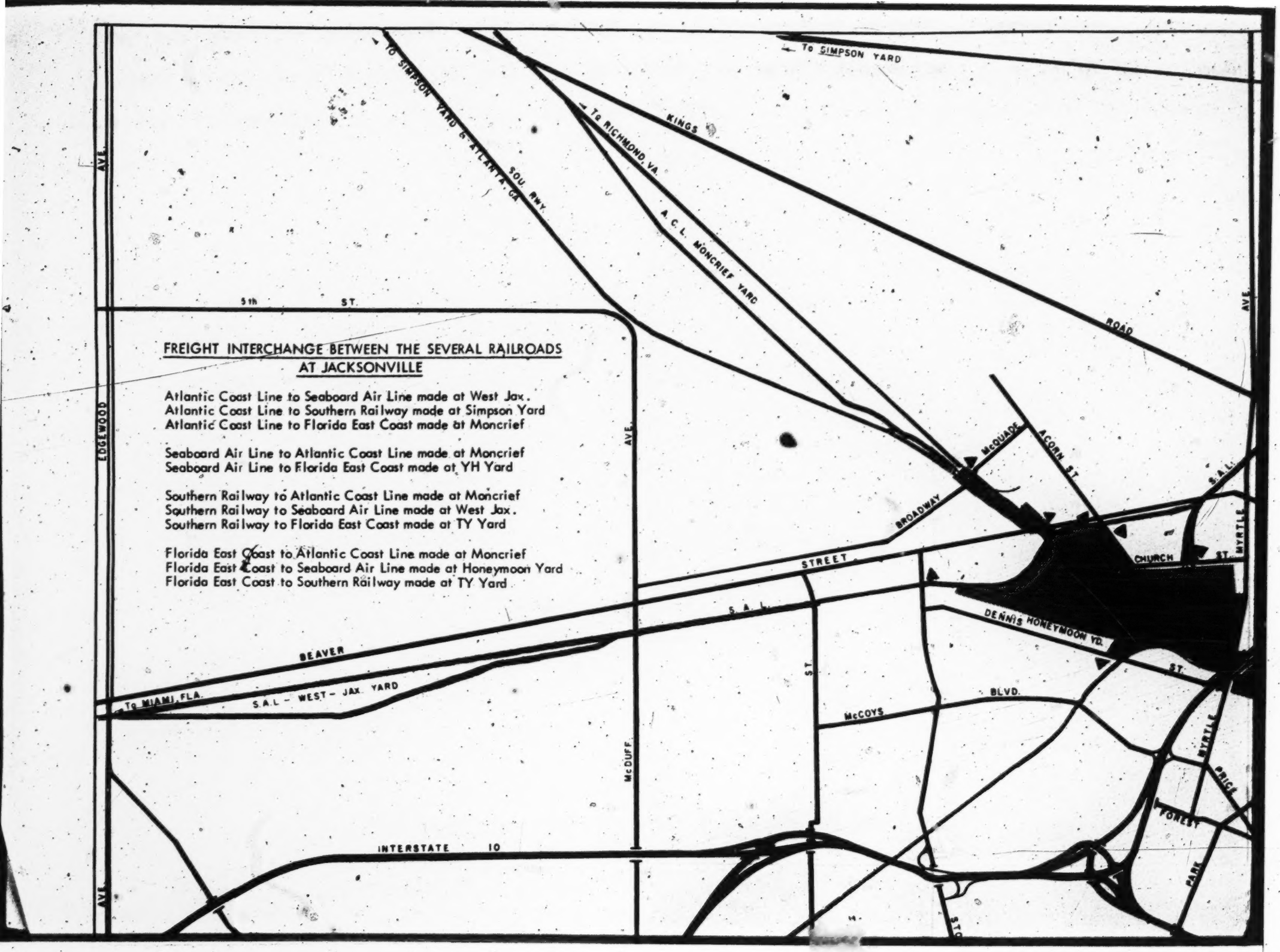
Before: TUTTLE, *Chief Judge,* RIVES, *Circuit Judge,* and CHOATE, *District Judge.*

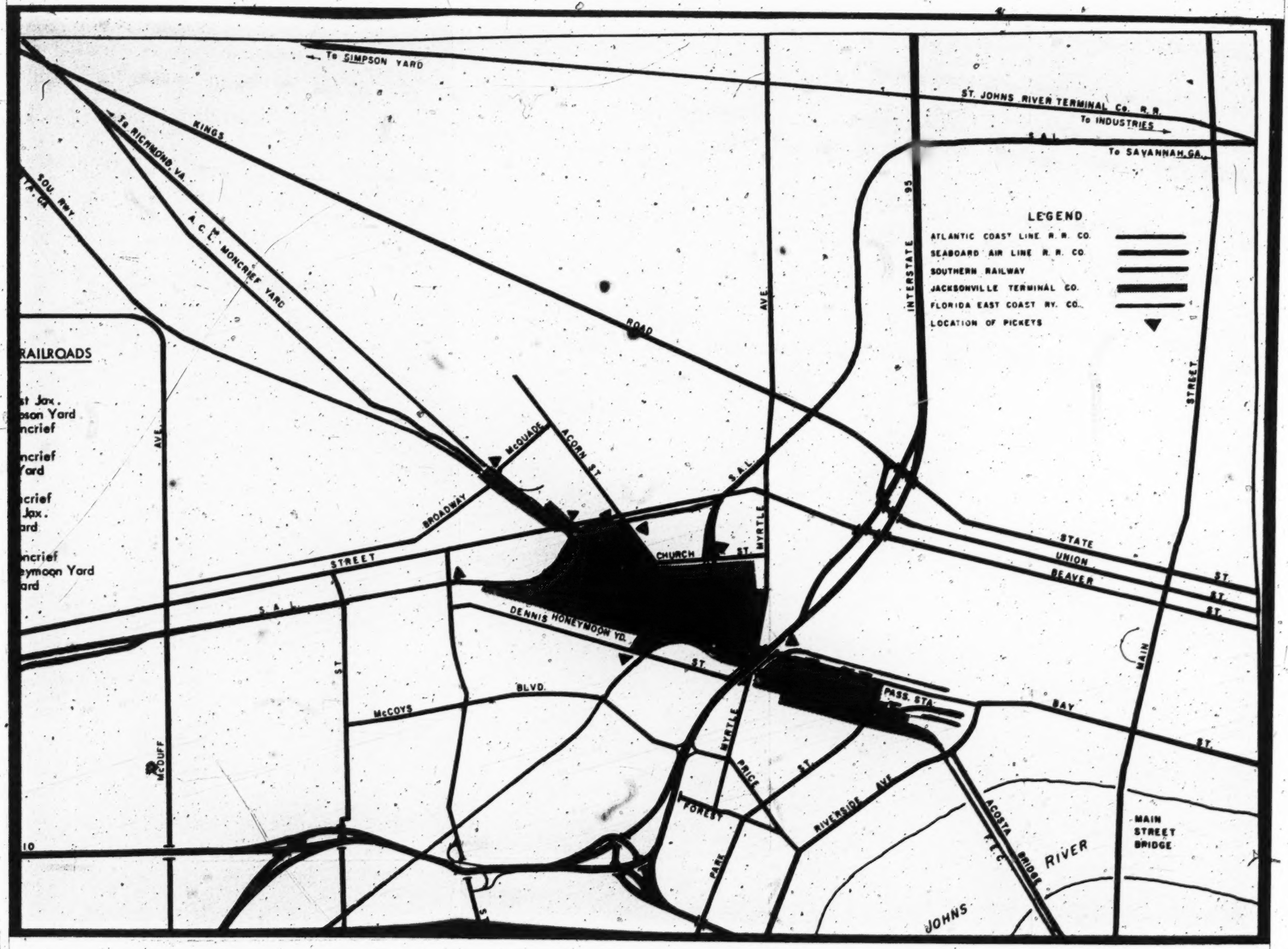
This is an appeal from the grant of an injunction against appellants, Brotherhood of Railroad Trainmen, et al., to prohibit picketing around the property of the Jacksonville Terminal Company. The Court concludes that the Norris-LaGuardia Act, 29 U.S.C.A. §101, et seq., deprives the Federal courts of jurisdiction to enter an injunction such as was issued by the trial court on May 16, 1966. Therefore, the judgment of the trial court is REVERSED.

The opinion of the Court will follow.

The mandate shall issue forthwith.

Judge Choate dissents.


FREIGHT INTERCHANGE BETWEEN THE SEVERAL RAILROADS AT JACKSONVILLE
Atlantic Coast Line to Seaboard Air Line made at West Jax.
Atlantic Coast Line to Southern Railway made at Simpson Yard
Atlantic Coast Line to Florida East Coast made at Moncrief
Seaboard Air Line to Atlantic Coast Line made at Moncrief
Seaboard Air Line to Florida East Coast made at YH Yard
Southern Railway to Atlantic Coast Line made at Moncrief
Southern Railway to Seaboard Air Line made at West Jax.
Southern Railway to Florida East Coast made at TY Yard
Florida East Coast to Atlantic Coast Line made at Moncrief
Florida East Coast to Seaboard Air Line made at Honeymoon Yard
Florida East Coast to Southern Railway made at TY Yard
To SIMPSON YARD
To SIMPSON YARD & ATLANTA, GA.
SOU. RWY.
To RICHMOND, VA.
A.C.L. MONCRIEF YARD
KINGS
ROAD
AVE.
5th ST.
EDGEWOOD AVE.
McQUADE
ACORN ST.
S.A.L.
BROADWAY
STREET
CHURCH ST.
MYRTLE
DENNIS HONEYMOON YD.
S.A.L.
BEAVER
To MIAMI, FLA.
S.A.L. - WEST - JAX YARD
McDUFF AVE.
ST.
McCOYS BLVD.
MYRTLE
CRIGE
FOREST
PARK
INTERSTATE 10


To SIMPSON YARD
To RICHMOND, VA.
KINGS ROAD
SOU. RWY
A. C. L. MONCRIEF YARD
ST. JOHNS RIVER TERMINAL Co. R.R.
To INDUSTRIES
S.A.L.
To SAVANNAH, GA.
INTERSTATE 95
AVE.
STREET
LEGEND
ATLANTIC COAST LINE R. R. CO.
SEABOARD AIR LINE R. R. CO.
SOUTHERN RAILWAY
JACKSONVILLE TERMINAL CO.
FLORIDA EAST COAST RY. CO.
LOCATION OF PICKETS
RAILROADS
st Jax.
pson Yard
ncrief
ncrief
Yard
crief
Jax.
ard
ncrief
eymoon Yard
ard
McQUADE
ACORN ST.
S.A.L.
BROADWAY
STREET
CHURCH ST.
MYRTLE
STATE
UNION
BEAVER
ST.
ST.
ST.
DENNIS HONEYMOON YD.
ST.
BLVD.
McCOYS
McDUFF
PASS. STA.
BAY
ST.
MAIN
MYRTLE
PRICE
ST.
FOREST
PARK
RIVERSIDE AVE
AGOSTA BRIDGE
F.E.C.
RIVER
JOHNS
MAIN STREET BRIDGE
10

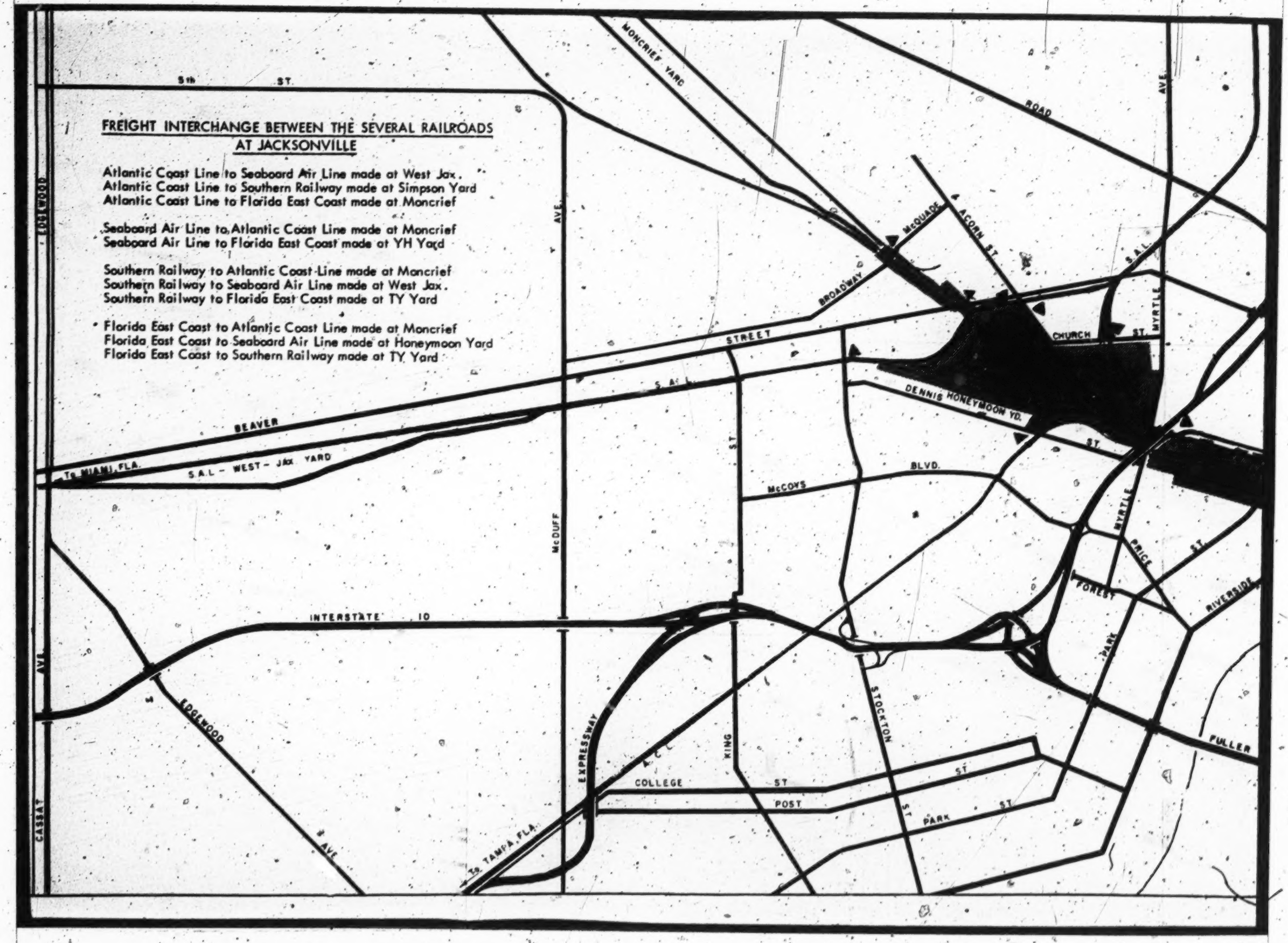
FREIGHT INTERCHANGE BETWEEN THE SEVERAL RAILROADS AT JACKSONVILLE

Atlantic Coast Line to Seaboard Air Line made at West Jax.
Atlantic Coast Line to Southern Railway made at Simpson Yard
Atlantic Coast Line to Florida East Coast made at Moncrief

Seaboard Air Line to Atlantic Coast Line made at Moncrief
Seaboard Air Line to Florida East Coast made at YH Yard

Southern Railway to Atlantic Coast Line made at Moncrief
Southern Railway to Seaboard Air Line made at West Jax.
Southern Railway to Florida East Coast made at TY Yard

Florida East Coast to Atlantic Coast Line made at Moncrief
Florida East Coast to Seaboard Air Line made at Honeymoon Yard
Florida East Coast to Southern Railway made at TY Yard



RAILROADS

...st Jax.
...pson Yard
...ncrief

...ncrief
...Yard

...ncrief
... Jax.
...ard

...ncrief
...eymoon Yard
...ard

ATLANTIC COAST LINE R. R. CO.
SEABOARD AIR LINE R. R. CO.
SOUTHERN RAILWAY
JACKSONVILLE TERMINAL CO.
FLORIDA EAST COAST RY. CO.
LOCATION OF PICKETS

MONCRIEF YARD
ROAD
AVE.
INTERSTATE
STREET
McQUADE
ACORN ST.
S.A.L.
BROADWAY
STREET
MYRTLE
CHURCH ST.
STATE
UNION
BEAVER
ST.
ST.
DENNIS HONEYMOON YD.
ST.
S A L
ST
BLVD.
McCOYS
PASS. STA.
MAIN
BAY
ST.
McDUFF
MYRTLE
PRICE
ST.
FOREST
RIVERSIDE AVE
PARK
ACOSTA
MAIN
STREET
BRIDGE
RIVER
STOCKTON
ST JOHNS
EXPRESSWAY
A.C.L.
KING
COLLEGE
ST
ST
POST
ST
PARK
ST
FULLER WARREN BRIDGE
I-95
TO BOWDEN YARD & MIAMI, FLA.
TAMPA, FLA.

Plaintiffs' Exhibit No. 10

(See opposite) ☞


STRIKE
AGAINST F.E.C.
STRIKE
AGAINST F.E.C.

Plaintiffs' Exhibit No. 13

(See opposite) ☞

Plaintiffs' Exhibit No. 16

(See opposite) ☞



Plaintiffs' Exhibit No. 21

[List of Companies]

SCHEDULE A

A & P Bakery Department
All State Pipe Supply Company
Allied Chemical
Atlantic Beer Company
The Atlantic Company
Bercleve Concrete Products and Supply Company
Birdseye-Snider Division of General Foods
Borden Southern Company
Chitty & Company
W. H. Clark Fruit Company
Cosco Products Company
George P. Coyle & Sons
Crane Supply Company
Dixie Galvanizing and Tank Company
Duval Steel Construction Company
Florida Rag Company
Harbor Plywood Company
Jacksonville Steel Company
Jacksonville Terminal Company
Knighton Lumber Company
Precast Concrete Products Incorporated
Public Quick-Freeze and Cold Storage Company
Pullman Company
Railway Express Agency, Incorporated
Security Mills of Jacksonville, Incorporated
Specialty Tank & Equipment Company

Plaintiffs' Exhibit No. 22

[List of Companies]

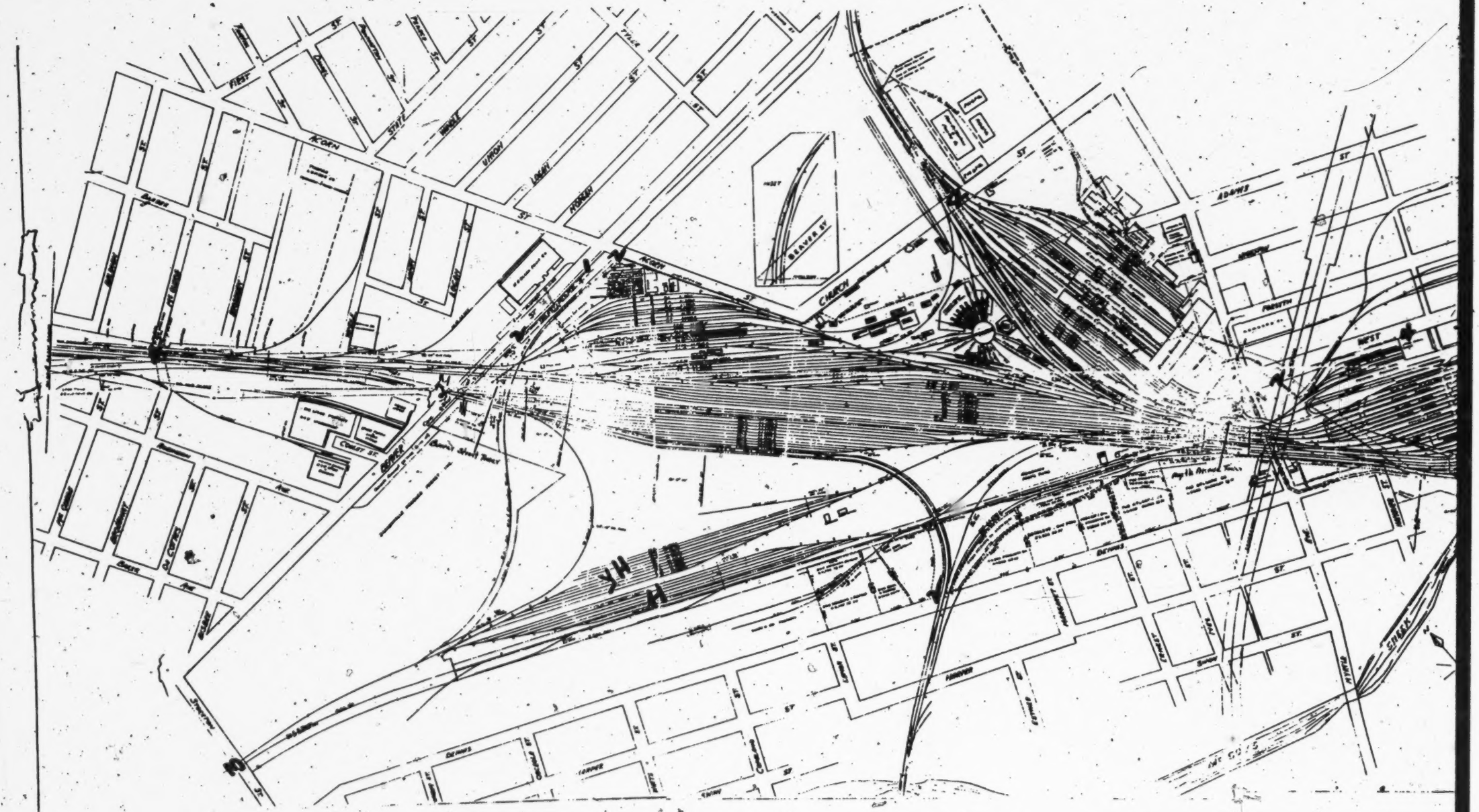
SCHEDULE B

A&P Pre-Package Products Warehouse
Allied Chemical Company—Nitrogen Division
Allison Transfer Company
Alton Box Board Company (Pulpwood only)
Paper Products Division
American Colcure Wood Preserving Corporation
American Cross Arm Company
American Mineral Spirits Company
American Warehouse Company
Armour Agriculture Chemical Company
Atlantic Fire Brick and Supply Company, Inc.
Atlantic Refining Company
Beaver Iron and Metal Company
Bond Howell Lumber Company
Boswell Supply Company
Capitol Concrete Company—Plants 1 and 4
C. I. Capps Company, Incorporated
Carbide and Carbon Chemicals Company
Champion Package Company—Southern Paper Box
Division
Clark & Lewis
Commercial Motels Company
Commercial Roof Decks of Jacksonville
Crusader Paper Company
Curtiss Candy Company
Darby Lumber Company
Dawkins Building and Supply Company
Daylight Grocery Company
Dixie Darling Bakery

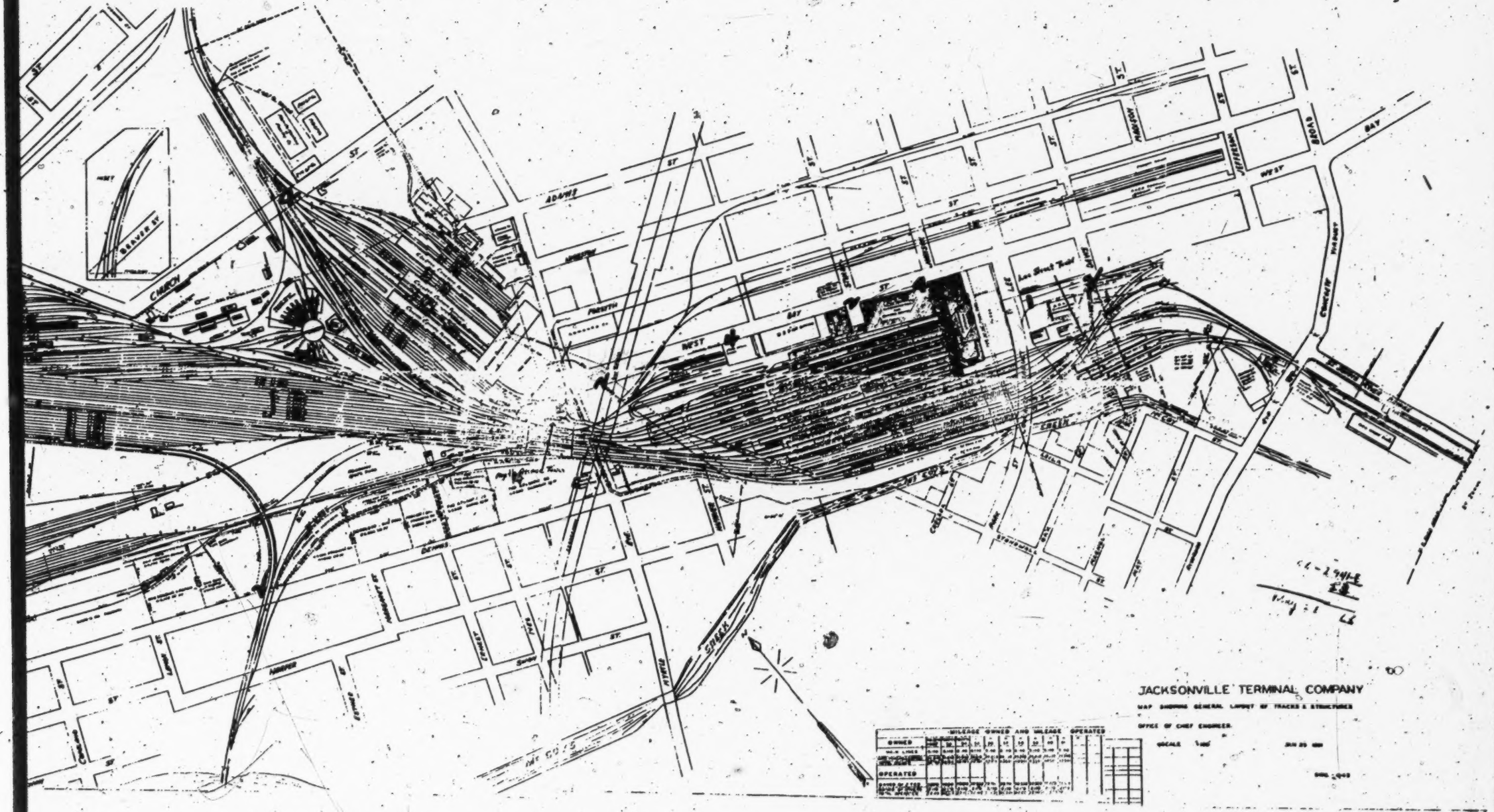
Dozier & Gay Paint Company
Farris Brothers Grocery
Hymie Fialkow Company
J. M. Pields Company
Fleco Corporation
Florida Agricultural Supply Company
Florida Caskets Company
Florida Ice Machinery Corporation
Florida Machine & Foundry Company
Florida Molasses Company
Florida Publishing Company
Florida State Board of Health
Florida Warehouse Corporation
Food Fair Stores, Setzers Bakery Division
French Mirror and Plate Glass Company
Fulton Distributing Company
General Paper Company
E. G. Golder Company
Graham Jones Paper Company
Bascom Hardee Company
Hester Plow Company, Inc.
Houdaille-Duval Incorporated
Ingram Construction Company
International Mineral and Chemicals
City of Jacksonville Pole Yard
City of Jacksonville Power Plant, North Shore
Jacksonville Port Authority
Jacksonville Produce Market (Beaver Street)
Jacksonville Shipyards, West Bay Street
Kaiser Gypsum Company, North Shore
Kellogg Sales Corporation
King Warehouse Company
Laney & Duke Storage Warehouse, Bay Street

Livingston & Thebault Oil Company, Inc.
L. B. Malone Company
Maxwell House Division of General Foods
McCormick Concrete Company
McGiffon & Company
Mid State Steel and Wire Company
Benjamin Moore Paint Company
Moore Dry Kiln Company
Mosaic Tile Company
E. C. Newsome Furniture Company
Newton School Equipment Company
Patterson Cold Storage Company
Phillips Petroleum Company
Pic-&-Save Company
Pittsburgh Plate Glass Company
Morris Portnoy Company, Produce
Pyrofax Gas Company, Division of Union Carbide & Carbon Company
Quality Oil Company
Ralston Purina Company
Reliatex Incorporated
Ring Power Corporation
Riverside Mattress Company
St. Johns Warehouse and Forwarding Company
Sealite, Incorporated
Service Warehouse Company
Sinclair Refining Company
Shuman-Cash Building Supply Company
Simplex Paper Company
Southeastern Rail and Steel Company
Southern Bakeries Company
Southern Rag and Waste Company
Southern Shipping Company

St. Regis Paper Company (and 2 box plants)
Southern States Oil Company
Southern Wholesale Furniture Company
Standard Oil Company
Steward-Mellon of Jacksonville
Streitman Biscuit Company
John H. Swisher & Sons Incorporated
TMT Trailer Ferry Company
Textile Paper Products Company
Union Terminal Warehouse Company
U. S. Navy Fuel Depot
Virga's Pizza Crust Company of the South
Virginia-Carolina Chemical Corporation
Western Electric Company
Williamson Feed Mills
C. G. Willis Barge Line
Wilson-Toomer Fertilizer Company
Zonolite Division of W. R. Grace Company


FIRST
ACORN
UNION
CHURCH
BEAVER ST
ADAMS
WEST
COURT ST
BRIDGE
SENECA

Plaintiffs' Exhibit No. 23



Order on Pleadings

[Filed May 28, 1966]

IN THE

CIRCUIT COURT

OF DUVAL COUNTY, FLORIDA

DIVISION B

No. 66-2941-E

JACKSONVILLE TERMINAL COMPANY, a corporation,

Plaintiff(s),

—v.—

BROTHERHOOD OF RAILROAD TRAINMEN, ETC., *et al.*,

Defendant(s).

After due notice by or to all parties affected, a hearing was held before the court with respect to the matters disposed of by this order.

Upon consideration, it is ORDERED that:

1. The plaintiff has leave to file the amended complaint file-marked by the clerk May 27, 1966, joining as additional defendants A. L. Groves and C. H. Wright (in addition to all the defendants named in the caption of the original complaint). That amended complaint is deemed filed with leave of court as of May 27, 1966.

2. The answer file-marked by the clerk May 27, 1966, is deemed the answer of all defendants except A. L. Groves and C. H. Wright to that amended complaint, any allegations made in that amended complaint that were not made in the original complaint being deemed denied by those defendants.

Jacksonville, Florida, May 28, 1966.

Motion and Order to Drop Parties

IN THE
CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

The plaintiff, Jacksonville Terminal Company, moves the Court to drop as party defendants A. L. Groves and C. H. Wright under the provisions of Rule 1.18, Florida Rules of Civil Procedure.

Order

[Filed May 30, 1966]

IN THE
CIRCUIT COURT
OF DUVAL COUNTY, FLORIDA

The plaintiff moved for entry of this order.

Upon consideration, it is ORDERED that:

1. This case is dismissed, without prejudice, as to the defendants A. L. Groves and C. H. Wright.

Jacksonville, Florida, May 30, 1966.

Order for Temporary Injunction

[Filed May 30, 1966]

IN THE

CIRCUIT COURT

OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

IN CHANCERY

This cause being heard on due notice upon plaintiff's application for a temporary injunction, and the Court having considered the affidavits attached to the original Complaint and having heard oral evidence in open court, and having heard oral argument from all counsel, the Court makes the following findings of fact and reaches the following conclusions of law:

1. Plaintiff is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Jacksonville, Duval County, Florida. Plaintiff is engaged in the railroad terminal business at Jacksonville, Florida, where it owns and operates as a common carrier with railroad yards and a railway station that provides services for various railroads and Duval County, Florida, industries.

2. The defendants are unincorporated labor organizations; the defendant Ray Moore is Deputy Vice President of the defendant Brotherhood of Railroad Trainmen and generally is in charge of promoting the acts and things hereinafter enjoined; other defendants are members of said labor organizations or individuals participating in concert with said organizations in the unlawful acts hereinafter enjoined.

3. This action arises under the Constitution and laws of the State of Florida and this Court has jurisdiction of the subject matter and of the parties.

4. On May 4, 1966, at or about 4:00 o'clock a.m., the defendant Brotherhood of Railroad Trainmen caused picket lines to be put up around the premises of plaintiff, Jacksonville Terminal Company ("Terminal Company") at numerous locations surrounding said premises. Said pickets patrolled at all entrances and exits by rail, foot or vehicle and resulted in a substantial cessation of the activities and business by Jacksonville Terminal Company and caused the employees of said Terminal Company to fail to report to work. All defendants have announced their intention to cause such picketing and patrolling of the premises of plaintiff to be renewed unless this temporary injunction issue.

5. Counsel for defendants announced at the beginning of taking of evidence in this case and the Court finds that if the picketing were resumed, it would result in a virtual cessation of activities not only of the Terminal Company but also of numerous industries in Duval County and throughout the remainder of the State of Florida. The picketing, if resumed, would adversely affect all of the people who are served by and do business with plaintiff and all railways served by the plaintiff. It would, further, adversely affect an entire economic area, from Duval County to Key West, Florida, and would cause economic strangulation of the entire state. The avowed purpose of the picketing is to cause the plaintiff and its employees to cease furnishing services to the Florida East Coast Railway Company, against whom the defendant Brotherhoods are now on strike and, thus, to bring the operations of the F. E. C. to a halt; the effect of the picketing is considerably more broad, as above stated.

6. The decision of this Court is not made upon the basis of violence. There is no evidence in the record of any violence or threat of violence involved in the picketing.

7. The Court concludes that the past and threatened picketing as described above is in violation of the law of the State of Florida and that this Court has the jurisdiction to enjoin the threatened picketing on that basis. The past and threatened picketing did and will constitute economic pressure in the nature of a secondary boycott which is illegal under Florida law. Further, the picketing seeks to force the plaintiff to violate its duties and obligations as a carrier under the Florida Transportation Act, F. S. §351.12, 351.14, 351.15, 351.16, 351.17 and 351.19, and seeks to coerce plaintiff into agreeing to embargo the FEC in violation of the Restraint of Trade Laws of this State. Chapter 542, Florida Statutes. Finally, the past and threatened picketing did and will unjustifiably interfere with and interrupt plaintiff's constitutional right to carry on its business, and said picketing constitutes the independent tort of unjustifiable interference with the contractual relationships between plaintiff and its shippers and between plaintiff and its employees. Plaintiff has been and will be subject to irreparable injury for which no adequate remedy at law exists. It is, therefore,

ORDERED AND DECREED that the defendants, Brotherhood of Railroad Trainmen, Ray Moore, Lowell Kennedy, Order of Railway Conductors and Brakemen, T. C. Boland, Brotherhood of Locomotive Fireman and Enginemen, and J. E. Eason, individually, and their officers, agents, servants, employees, representatives, members, attorneys and all other persons acting at the direction of or in active concert or participation with either the Brotherhood of Railroad Trainmen, the Order of Railway Conductors and

Brakemen, or the Brotherhood of Locomotive Firemen and Enginemen, and all persons receiving notice of any such orders of the Court, are temporarily enjoined and restrained from:

(a) Picketing the properties owned or operated by plaintiff in Jacksonville, Duval County, Florida, except at the reserved entrance located at Bay and Stuart Streets, Jacksonville, Florida, designated for use by FEC employees.

(b) Causing, directing, authorizing, recommending, sanctioning, or participating in the patrolling, picketing, or blockading of the entrances or exits used by the employees of plaintiff in connection with their work or in connection with plaintiff's land, buildings, facilities or other property operated, owned, or controlled by plaintiff; provided, however, that this order shall not apply to the reserved entrance located at Bay and Stuart Streets, Jacksonville, Florida, designated for use by FEC employees;

(c) Causing or inducing the employees of plaintiff who report for work at the Terminal Company to cease performing the duties of their employment;

(d) Interfering in any way with the operation of plaintiff's properties by plaintiff.

This temporary injunction shall become effective upon the filing by plaintiff and acceptance by the Clerk of this Court of a good and sufficient bond in favor of defendants in the amount of $25,000.00.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this 30th day of May, 1966.

ROGER J. WAYBRIGHT
Circuit Judge

Interrogatories to Defendants

[Filed June 14, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

IN CHANCERY

In accordance with the applicable Rules of Civil Procedure, you are required within twenty days after service hereof to answer under oath and in writing the following interrogatories:

1. State the names and addresses of all pickets who picketed Jacksonville Terminal Company premises on May 4, 1966, and the names of the organizations of which they were members.

2. State the names and addresses of picket captains, if any, of the pickets of May 4, 1966, and the names of the organizations of which they were members.

3. State the names and addresses of the persons who placed or who was responsible for the placing of the pickets around Jacksonville Terminal Company property on May 4, 1966, and the names of the organizations of which they were members.

4. State the names and addresses of the picket supervisors who had charge of the pickets of the Jacksonville Terminal Company on May 4, 1966, and the names of the organizations of which they were members.

5. State the names, addresses, and labor organization affiliations of all persons present at the meeting held April 24, 1966, at the George Washington Hotel in Jacksonville, Florida, regarding the picketing of Jacksonville Terminal Company.

6. State the names, addresses, and labor organization affiliations of all persons present at the meeting held May 3, 1966 at the George Washington Hotel in Jacksonville, Florida, regarding the picketing of Jacksonville Terminal Company.

7. State the names, addresses, and labor organization affiliations of all persons present at any and all other meetings concerning the picketing of the Jacksonville Terminal Company and the dates and places of each such meeting.

8. State the names and addresses of the person or persons who prepared the signs the pickets were wearing on May 4, 1966; the place or places such signs were prepared and the labor organizations to which those persons belong; and the name and address of the person or persons paying for the same.

9. State the names and addresses of the person or persons who placed the tape on part of the picket signs used on May 4, 1966.

10. What were the printed words under the tape on the picket signs used on May 4, 1966?

11. State the time and place of the last meeting before May 23, 1966, between members of defendant unions and representatives of the Florida East Coast Railway Com-

pany and further state the names and addresses of all persons who attended such meeting.

12. State in substance what occurred at the meeting referred to in the preceding interrogatory.

13. State whether or not any representatives or members of the defendant unions have before May 23, 1966, discussed the picketing of the Jacksonville Terminal Company properties with any members of the locals representing Jacksonville Terminal Company employees and, if so, state the names and addresses of all persons who participated in such discussions and the subject matter of the discussions.

14. State whether or not any representatives or members of the defendant unions have before May 23, 1966, discussed the picketing of Jacksonville Terminal Company properties with any members of the locals representing Seaboard Air-Line Railroad Company employees and, if so, state the names and addresses of all persons who participated in such discussions and the subject matter of the discussions.

15. State whether or not any representatives or members of the defendant unions have before May 23, 1966, discussed the picketing of Jacksonville Terminal Company properties with any members of the locals representing Atlantic Coast Line Railroad Company employees and, if so, state the names and addresses of all persons who participated in such discussions and the subject matter of the discussions.

16. State whether or not any representatives or members of the defendant unions have before May 23, 1966, discussed the picketing of Jacksonville Terminal Company properties with any members of the locals representing Southern Railway System employees and, if so, state the names and addresses of all persons who participated in such discussions and the subject matter of the discussions.

Motion to Strike

[Filed June 14, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

IN CHANCERY

Plaintiff, Jacksonville Terminal Company, a corporation, by its undersigned attorneys, moves the Court to strike the following matters and portions from the defendants' Answer:

1. From paragraph 3, page 1, the following words, to-wit:

> "... the plaintiff itself having asserted in the United States District Court, the Court of Appeals for the Fifth Circuit and the Supreme Court of the United States that the Federal courts have exclusive jurisdiction over the subject matter of this dispute."

2. From paragraph 4, page 1, the following words, to-wit:

"... including the premises of the plaintiff ..."

3. From paragraph 6, page 2, the following words, to-wit:

> "... and have the right under federal law to resume peaceful picketing at locations including those previously picketed at or near the property of the plaintiff ..."

4. From paragraph 7, page 2, the following words, to-wit:

"Defendants admit that the railroad employees of the Atlantic Coast Line Railroad, and Seaboard Air Line Railroad Company, exercised their right under federal law to honor the picket lines of the defendant Brotherhood of Railway Trainmen and . . ."

". . . and to have the right under applicable federal law . . ."

5. From paragraph 8, page 3, the following words, to-wit:

". . . the plaintiff alleging exclusive federal jurisdiction over the subject matter of the litigation and the Court of Appeals for the Fifth Circuit concluding that it was without jurisdiction to *enter* an injunction."

Upon the joint and several grounds that each of the matters hereinabove sought to be stricken is unresponsive to the allegations of the Complaint; constitutes legal and/or factual conclusions of the pleader; are immaterial, impertinent, and scandalous.

Plaintiff further moves the Court to strike the following defenses filed herein by the defendants:

6. Defendants' first defense, page 3, upon the grounds that said defense is insufficient as a matter of law and does not comply with the applicable provisions of the Florida Rules of Civil Procedure (1966).

7. Defendants' third defense, page 4, upon the grounds that said defense is redundant and insufficient as a matter of law.

8. Defendants' fourth defense, page 4, upon the grounds that said defense is immaterial, redundant and insufficient as a matter of law.

9. Defendants' fifth defense, page 4, upon the grounds that said defense is redundant, immaterial and insufficient as a matter of law.

10. Defendants' fifth defense, page 5, upon the grounds that said defense is redundant, immaterial and insufficient as a matter of law.

11. Defendants' sixth defense, page 5, upon the grounds that the *Norris LaGuardia Act,* 49 USC §101 et seq., by its terms is limited to "Courts of the United States" and said defense is insufficient as a matter of law.

12. Defendants' seventh defense, page 5, upon the grounds that said defense is insufficient as a matter of law.

Order

[Filed June 20, 1966]

IN THE

CIRCUIT COURT OF DUVAL COUNTY, FLORIDA

This court notes the reference, in the defendants' application to the Supreme Court of the United States for an order staying the temporary injunction issued by this court, to "the delays presented by state courts".

Upon consideration, it is ORDERED that:

1. The plaintiff's motion to strike portions of the answer, and all other undisposed of matters, will be heard, and this case will be set for final hearing, at 10:20 A. M. on Thursday, June 23, 1966.

2. At that time the court proposes to schedule the final hearing for 2:15 P. M. on Thursday, June 23, 1966.

Jacksonville, Florida, June 20, 1966.

Order on Pleadings and Interrogatories

[Filed June 23, 1966]

IN THE

CIRCUIT COURT OF DUVAL COUNTY, FLORIDA

After due notice by or to all parties affected, a hearing was held before the court with respect to the matters disposed of by this order.

Upon consideration, it is ORDERED that:

1. The defendants' motion to dismiss the amended complaint (which motion to dismiss is incorporated as the "first defense" in the answer) is denied. [Under Florida rule of civil procedure 1.11(b), as amended effective January 1, 1966, a motion to dismiss a complaint for failure to state a cause of action must state the grounds on which the motion is based and the substantial matters of law intended to be argued specifically and with particularity, and any ground not so stated is deemed to be waived.]

2. Plaintiff's motion to strike portions of the defendants' answer is granted with respect to those portions of the answer quoted in ¶s 1 and 8 of the defendants' motion to strike; those portions of the answer are stricken. The plaintiff's motion to strike is otherwise denied.

3. The defendants' oral objections to the interrogatories propounded by the plaintiff to the defendants on June 14, 1966 (made orally with the consent of the plaintiff) are overruled. The defendants shall serve and file answers to those interrogatories within 10 days after the date of this order.

Jacksonville, Florida, June 23, 1966.

Order Setting Final Hearing

[Filed June 23, 1966]

IN THE

CIRCUIT COURT OF DUVAL COUNTY, FLORIDA

All parties affected hereby agreed to entry of this order, or, after due notice by or to all parties affected, this cause was heard upon application for entry of this order.

Upon consideration, it is ORDERED that:

1. *Final Hearing*: The final hearing in this cause will be held before the court, in chambers at 206 Duval County Courthouse, Jacksonville, Florida, at 9:00 A. M. on Friday, July 29, 1966.

Jacksonville, Florida, June 23, 1966.

Stipulation and Exhibits Thereto

[Filed July 26, 1966]

IN THE

CIRCUIT COURT

OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

IN CHANCERY

IT IS HEREBY STIPULATED by and between counsel for the plaintiff, Jacksonville Terminal Company, and counsel for the defendants, Brotherhood of Railroad Trainmen, Ray Moore, Lowell Kennedy, Order of Railway Conductors and Brakemen, T. C. Bolin, Brotherhood of Locomotive Firemen and Enginemen, and J. E. Eason, as follows:

1. That the memberships of the Brotherhood of Railroad Trainmen, Order of Railway Conductors and Brakemen, and Brotherhood of Locomotive Firemen and Enginemen are composed predominantly and overwhelmingly of employees of employers subject to the Railway Labor Act. The said three defendant unions deal with their members' employers concerning labor disputes, rates of pay and work conditions.

2. That approximately 93% of the members and persons represented by the Brotherhood of Railroad Trainmen are employees of employers subject to the Railway Labor Act, and approximately 7% of such members and persons represented are employees of employers who are not subject to the Railway Labor Act.

3. That approximately 98% of the members and persons represented by the Order of Railway Conductors and Brakemen are employees of employers subject to the Railway Labor Act, and approximately 2% of such members and persons represented are employees of employers who are not subject to the Railway Labor Act.

4. That approximately 93% of the members and persons represented by the Brotherhood of Locomotive Firemen and Enginemen are employees of employers subject to the Railway Labor Act, and approximately 7% of such members and persons represented are employees of employers who are not subject to the Railway Labor Act.

5. That all persons picketing the premises of Jacksonville Terminal Company on May 4, 1966, were members of local lodges composed solely of employees of employers subject to the Railway Labor Act. All pickets were employees of the Florida East Coast Railway Company, an employer subject to the Railway Labor Act.

6. On January 30, 1963, when the non-operating crafts went on strike against the FEC, Jacksonville Terminal Company designated a special gate for the exclusive use and entrance of FEC employees who report to work on JTC premises to begin their work day. This gate is located at Stuart and Bay Streets and is marked accordingly. Employees of JTC were notified of this action by bulletins to that effect placed on the usual bulletin boards and by placing the bulletins in the usual bulletin books. All rail carriers using the facilities of JTC and their employees were notified of the designation of the special gate above referred to by special bulletins sent to the management of said carriers with requests for them to notify their em-

ployees accordingly. In addition, bulletins to that effect were placed on the telegraph bulletin board which is regularly read by the operating crews of the various carriers. Copies of said bulletins and notices and related communications are attached as a part hereof. From January 1963 to August 1965, no employees of FEC reported to work at the premises of JTC to begin their work day. From August 1965 to the present, the FEC has had six employees who regularly report to work to begin their work day at the premises of Jacksonville Terminal Company. Occasionally these employees enter the premises of JTC via an entrance other than the one designated for their use only. Likewise, occasionally from 1963 to present, persons not employed by FEC have used said designated gate. Since 1963, JTC, other than as above described, has not policed the use of the designated gate by FEC employees, has not and does not have the personnel to do so, and has never been requested to do so by any of the defendant unions, their respective local lodges, or any of the various carriers.

7. That Jacksonville Terminal Company is a corporation engaged in the railroad terminal business and in the course of such business provides services for the Atlantic Coast Line Railroad Company, the Seaboard Air Line Railroad Company, the Southern Railway Company, the Georgia Southern and Florida Railway Company, and the Florida East Coast Railway Company which are railroad carriers operating in interstate commerce. The Jacksonville Terminal Company provides services for such railroad carriers of a value in excess of $50,000.00 per year and does a gross volume of business in excess of $500,000.00 per year.

8. That a copy of the Constitution of the Brotherhood of Railroad Trainmen and a copy of the Operating Agreement between Jacksonville Terminal Company and Atlantic Coast Line Railroad Company, Seaboard Air Line Railroad Company, Southern Railway Company, Georgia Southern and Florida Railway Company and Florida East Coast Railway Company and any portion of the *Joint Appendix* in case No. 19,084 styled *I. B. E. W. et al. vs. N. L. R. B.* (350 F. 2d 791 C. C. A. D. C. 1965), may be admitted in evidence without proof of authenticity and subject only to objection as to relevancy and materiality.

Dated this 22 day of July, A. D. 1966.

NOTICE TO EMPLOYEES ANNEXED TO STIPULATION

JACKSONVILLE TERMINAL COMPANY

JACKSONVILLE, FLORIDA

January 29, 1963

NOTICE TO EMPLOYEES:

By order of the U. S. District Court, Florida East Coast may handle cars in the yards of the Jacksonville Terminal Company effective after 1:00 P. M., Thursday, January 31, 1963.

All Officers and employees of the Jacksonville Terminal are expected to join with me in carrying out the order of this High Court and continue to carry on the full duties as have been assigned to you.

/s/ M. C. JENNETTE
M. C. Jennette
President & General Manager

NOTICE TO LABOR REPRESENTATIVES ANNEXED TO STIPULATION

JACKSONVILLE TERMINAL COMPANY

JACKSONVILLE, FLORIDA

January 29, 1963

Mr. W. A. Neider,
General Chairman
Railroad Yardmasters of America

Mr. C. W. Crews,
District Chairman
Brotherhood of Railway & Steamship Clerks

Mr. E. R. Beach,
Division Chairman
Brotherhood of Maintenance of Way Employees

Mr. H. W. Kirkpatrick,
Local Chairman
Brotherhood of Railroad Signalmen

Mr. D. M. Loop,
General Chairman
The Order of Railroad Telegraphers

Mr. J. R. Goodman,
General Chairman
The American Railway Supervisors Assn.

Mr. J. H. Kirchain,
President
System Federation No. 50

Mr. C. L. Marseilles,
Secretary
System Federation No. 50

Mr. J. H. Kirchain,
General Chairman
International Brotherhood of Electrical Workers

Mr. C. L. Marseilles,
General Chairman
Brotherhood Railway Carmen of America

Mr. R. M. Davis,
Local Representative
Sheet Metal Workers International

Mr. K. C. Hodges,
Local Chairman
International Association of Machinists

Mr. William Malone,
Local Chairman
International Brotherhood of Firemen, Oilers, Helpers, Roundhouse & Railway Shop Laborers

Mr. T. B. Steadman,
General Chairman
International Brotherhood of Boilermakers, Iron Shop Builders, Blacksmiths, Forgers & Helpers

Mr. L. F. Scheich,
General Chairman
Brotherhood of Railroad Trainmen

Mr. W. Cannon,
General Chairman
Brotherhood of Locomotive Engineers

Mr. J. D. Prosser,
General Chairman
Brotherhood of Locomotive Firemen & Enginemen

Gentlemen:

By order of the United States District Court, the Florida East Coast Railway Company may handle cars in the yards of the Jacksonville Terminal Company, effective after 1:00 P.M. Thursday, January 31, 1963.

You are requested to join with me in seeing that all employees of the Jacksonville Terminal Company carry out the order of this High Court and continue to carry on the full duties as have been assigned to them.

Very truly yours,

M. C. Jennette
President & General Manager

LETTER TO ORDER OF RAILROAD TELEGRAPHERS ANNEXED TO STIPULATION

January 29, 1963

Mr. D. M. Loop, General Chairman
The Order of Railroad Telegraphers
Jacksonville Terminal Company
Jacksonville, Florida

Dear Sir:

Your letter of January 21, 1963 advising me that the employees of the Jacksonville Terminal Company who are represented by the Order of Railroad Telegraphers had been instructed not to perform any service for the Florida East Coast Railway Company after the strike date of 6:00 A.M., January 23, by the Non-Operating Unions against the Florida East Coast Railway Company.

You will note from your copy of letter of January 29, addressed to all labor representatives on Jacksonville Terminal Company's property, that by order of the United States District Court, the Florida East Coast Railway Company may handle cars in the yards of the Jacksonville Terminal Company, effective after 1:00 P.M. Thursday, January 31, 1963.

Jacksonville Terminal Company employees represented by the Order of Railroad Telegraphers are expected to perform service for the Florida East Coast Railway Company in line with their previously assigned duties and you are requested to join with me in seeing that the order of this High Court is carried out.

Very truly yours,

/s/ M. C. Jennette
President & General Manager

NOTICE TO EMPLOYEES ANNEXED TO STIPULATION

JACKSONVILLE TERMINAL COMPANY
Jacksonville, Florida

January 30, 1963

TO ALL EMPLOYEES OF JACKSONVILLE TERMINAL COMPANY:

Further in connection with my bulletin of the 29th urging each of you to faithfully perform your duties which have already been assigned to you:

As information, a sign has been posted at Stuart and Bay Streets reading as follows:

> "'This entrance for employees of the FEC Railroad. Employees of all other railroad companies use entrance at Johnson and Bay Street"

Those FEC employees having business on Terminal Company property are to use the entrance as indicated above.

Another sign has been posted at the Bay Street corner entrance adjoining the Baggage Room, Bay and Johnson Streets, reading as follows:

> "This entrance for employees of the following companies: SAL RR — ACL RR — SOU RR — JAX TERM. Employees of FEC Railroad use entrance at Stuart and Bay Streets"

Employees reporting to work or having business at the Terminal Company are requested to continue to go about the faithful fulfillment of their respective positions and refrain from entering or leaving the property at Bay and Stuart Streets.

/s/ M. C. JENNETTE
M. C. Jennette
President & General Manager

LETTER TO FEC RY, ACL RR, SAL RR, SOU RY ANNEXED TO STIPULATION

January 30, 1963

Mr. W. L. Thornton, FEC, St. Augustine, Fla.
Mr. L. T. Andrews, ACL, Jacksonville, Florida
Mr. J. L. Cooke, SAL, Jacksonville, Florida
Mr. J. V. Webb, SOU, Jacksonville, Florida

Gentlemen:

With my letter of January 22 you were given copy of letter from the General Chairman of the Order of Railroad Telegraphers representing employees on Jacksonville Terminal Company in connection with the work stoppage on the Florida East Coast.

Judge William A. McRae, U. S. District Court, has advised our local counsel that he had concluded to grant preliminary injunction on the application of the Florida East Coast Railway to restrain the Jacksonville Terminal Company from refusing to accept trains or cars of the Florida East Coast in its yard. In this connection, I have replied to the General Chairman of the Order of Railroad Telegrapher's letter, and have also written letter to labor representatives of all organizations representing employees on the Jacksonville Terminal Company property. Bulletin

notice has been posted on our bulletin boards for direct employee information. Copies are attached for your information.

Every effort is being made to afford normal operation of the Terminal Company in compliance with Judge McRae's order.

Very truly yours,

/s/ M. C. Jennette
President & General Manager

JB/kf

RF

TELEGRAM TO SEABOARD AIR LINE RAILROAD COMPANY ANNEXED TO STIPULATION

Telefax **WESTERN UNION** Telefax

...DING BLANK

CALL LETTERS _____ CHARGE TO CAK 10991

Jacksonville, Fla., January 31, 1963

MR. L. C. BATES, SUPERINTENDENT
SEABOARD AIR LINE RAILROAD COMPANY
JACKSONVILLE, FLORIDA

ENTRANCE TO JACKSONVILLE TERMINAL ADJOINING THE BAGGAGE ROOM AT BAY AND JOHNSON STREETS HAS BEEN DESIGNATED AS ENTRANCE FOR SAL EMPLOYEES. PLEASE ISSUE PROPER INSTRUCTIONS.

M. C. JENNETTE
JACKSONVILLE TERMINAL COMPANY

(PHONED TO WESTERN UNION 11:15 A.M.)

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—(R 4-55)

TELEGRAM TO FLORIDA EAST COAST RAILWAY COMPANY ANNEXED TO STIPULATION

Telefax WESTERN UNION Telefax

SENDING BLANK

CALL LETTERS

CHARGE TO CAK 1099W

Jacksonville, Fla., January 31, 1963

MR. W. L. THORNTON, VICE PRESIDENT & CHIEF OPERATING OFFICER
FLORIDA EAST COAST RAILWAY COMPANY
ST. AUGUSTINE, FLORIDA

ENTRANCE TO JACKSONVILLE TERMINAL AT BAY AND STUART STREETS HAS BEEN DESIGNATED FOR USE OF FEC EMPLOYEES. PLEASE ISSUE PROPER INSTRUCTIONS.

M. C. JENNETTE
JACKSONVILLE TERMINAL COMPANY

(PHONED TO WESTERN UNION 11:15 A.M.)

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—(R 4-55)

TELEGRAM TO ATLANTIC COAST LINE RAILROAD COMPANY ANNEXED TO STIPULATION

Telefax **WESTERN UNION** Telefax 4

SPELLING BLANK

CALL LETTERS

CHARGE TO CAK 1099W

Jacksonville, Fla., January 31, 1963

MR. L. T. ANDREWS, GENERAL MANAGER
ATLANTIC COAST LINE RAILROAD COMPANY
JACKSONVILLE, FLORIDA

ENTRANCE TO JACKSONVILLE TERMINAL ADJOINING THE BAGGAGE ROOM AT BAY AND JOHNSON STREETS HAS BEEN DESIGNATED AS ENTRANCE FOR ACL EMPLOYEES. PLEASE ISSUE PROPER INSTRUCTIONS.

M. C. JENNETTE
JACKSONVILLE TERMINAL COMPANY

(PHONED TO WESTERN UNION 11:15 A.M.)

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—[R 4-55]

TELEGRAM TO SEABOARD AIR LINE RAILROAD COMPANY ANNEXED TO STIPULATION

Telefax **WESTERN UNION** Telefax

DING BLANK

CALL LETTERS _____ CHARGE TO CAK 1099W

Jacksonville, Fla., January 31, 1963

MR. J. H. HESTER, SUPERINTENDENT
SEABOARD AIR LINE RAILROAD COMPANY
SAVANNAH, GEORGIA

ENTRANCE TO JACKSONVILLE TERMINAL ADJOINING THE BAGGAGE ROOM AT BAY AND JOHNSON STREETS HAS BEEN DESIGNATED AS ENTRANCE FOR SAL EMPLOYEES. PLEASE ISSUE PROPER INSTRUCTIONS.

M. C. JENNETTE
JACKSONVILLE TERMINAL COMPANY

(PHONED TO WESTERN UNION 11:15 A.M.)

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—[R 4-55]

NOTICE TO LABOR REPRESENTATIVES ANNEXED TO STIPULATION

JACKSONVILLE TERMINAL COMPANY
Jacksonville, Florida

January 31, 1963

Mr. W. A. Neider, General Chairman
Railroad Yardmasters of America

Mr. C. W. Crews, District Chairman
Brotherhood of Railway & Steamship Clerks

Mr. E. R. Beach, Division Chairman
Brotherhood of Maintenance of Way Employees

Mr. H. W. Kirkpatrick, Local Chairman
Brotherhood of Railroad Signalmen

Mr. D. M. Loop, General Chairman
The Order of Railroad Telegraphers

Mr. J. R. Goodman, General Chairman
The American Railway Supervisors Assn.

Mr. J. H. Kirchain, President
System Federation No. 50

Mr. C. L. Marseilles, Secretary
System Federation No. 50

Mr. J. H. Kirchain, General Chairman
International Brotherhood of Electrical Workers

Mr. C. L. Marseilles, General Chairman
Brotherhood Railway Carmen of America.

Mr. R. M. Davis, Local Representative
Sheet Metal Workers International

Mr. K. C. Hodges, Local Chairman
International Association of Machinists

Mr. William Malone, Local Chairman
International Brotherhood of Firemen, Oilers, Helpers, Roundhouse & Railway Shop Laborers

Mr. T. B. Steadman, General Chairman
International Brotherhood of Boilermakers, Iron Shop Builders, Blacksmiths, Forgers & Helpers.

Mr. L. F. Scheich, General Chairman
Brotherhood of Railroad Trainmen

Mr. W. Cannon, General Chairman
Brotherhood of Locomotive Engineers

Mr. J. D. Prosser, General Chairman
Brotherhood of Locomotive Firemen & Enginemen

Gentlemen:

On January 29, 1963, I issued notice to all Jacksonville Terminal Company employees urging all to join with me in carrying out order of the U. S. District Court effective after 1:00 p.m. today.

For your convenience, attached is copy of my notice of January 30 to all Terminal Company employees in further connection with the January 29 notice.

Yours very truly,

M. C. JENNETTE
President & General Manager

NOTICE TO EMPLOYEES ANNEXED TO STIPULATION

JACKSONVILLE TERMINAL COMPANY
Jacksonville, Florida

February 4, 1963

TO ALL EMPLOYEES OF ATLANTIC COAST LINE RAILROAD
FLORIDA EAST COAST RAILWAY
SEABOARD AIR LINE RAILROAD
SOUTHERN RAILWAY SYSTEM

EMPLOYEE ENTRANCES

A sign has been posted at Stuart and Bay Streets reading as follows:

"This entrance for employees of the FEC Railroad. Employees of all other railroad companies use entrance at Johnson and Bay Street"

Those FEC employees having business on Terminal Company property are to use the entrance as indicated above.

Another sign has been posted at the Bay Street corner entrance adjoining the Baggage Room, Bay and Johnson Streets, reading as follows:

"This entrance for employees of the following companies: SAL RR—ACL RR—SOU RR—JAX TERM. Employees of FEC Railroad use entrance at Stuart and Bay Streets"

Employees reporting to work or having business at the Terminal Company are requested to continue to go about the faithful fulfillment of their respective positions and refrain from entering or leaving the property at Bay and Stuart Streets.

M. C. JENNETTE
President & General Manager

Bulletin Books
US Telegraph Office
ACL RR
FEC RY
SAL RR
SOU RY

INTER-OFFICE COMMUNICATION ANNEXED TO STIPULATION

February 4, 1963

Mr. B. G. Hubbard
Mr. C. G. Bennett

Notice to all employees of tenant line railroads in connection with entrance to the Terminal has been prepared, and Mr. Hubbard will arrange to post in each tenant line Bulletin Book in the Telegraph Office.

Mr. Bennett should arrange to patrol the designated entrances to the Terminal, and if in his opinion conditions justify, he should challenge anyone entering via Stuart Street. If it is determined that they are employees of the Terminal Company or any railroad other than FEC, he should request that they turn back and go to the entrance designated for them.

M. C. Jennette

JB/mm
RF

INTER-OFFICE COMMUNICATION ANNEXED TO STIPULATION

September 24, 1964

Mr. R. D. Carr:

Since the sign at Stuart Street, which indicated entrance point for FEC employees, was demolished during the hurricane, it will be necessary to replace this as quickly as possible.

Suggest this be placed on a metal sign and hung on the corner of the building. The sign is to read as follows:

"This entrance for employees of the FEC Railroad. Employees of all other railroad companies use entrance at Johnson and Bay Streets"

M. C. Jennette

cc—
Mr. F. H. Reynolds

MCJ/kf

RF

INTER-OFFICE COMMUNICATION ANNEXED TO STIPULATION

September 25, 1964

Mr. R. D. Carr:

Further my letter of September 24 regarding entrance sign for FEC employees. It will also be necessary to replace sign at end of Johnson Street near the baggage room. Please arrange to do this promptly. Sign is to read as follows:

"This entrance for employees of the following companies: SAL RR—ACL RR—SOU RR—JAX TERM. Employees of FEC Railroad use entrance at Stuart and Bay Streets"

M. C. JENNETTE

cc—
Mr. F. H. Reynolds

MCJ/kf

RF

NOTICE TO EMPLOYEES ANNEXED TO STIPULATION

JACKSONVILLE TERMINAL COMPANY
Jacksonville, Florida

January 30, 1963
Reissued July 30, 1965

TO ALL EMPLOYEES OF JACKSONVILLE TERMINAL COMPANY:

Further in connection with my bulletin of the 29th urging each of you to faithfully perform your duties which have already been assigned to you:

As information, a sign has been posted at Stuart and Bay Streets reading as follows:

> "This entrance for employees of the FEC Railroad. Employees of all other railroad companies use entrance at Johnson and Bay Street."

Those FEC employees having business on Terminal Company property are to use the entrance as indicated above.

Another sign has been posted at the Bay Street corner entrance adjoining the Baggage Room, Bay and Johnson Streets, reading as follows:

> "This entrance for employees of the following companies: SAL RR—ACL RR—SOU RR—JAX TERM. Employees of FEC Railroad use entrance at Stuart and Bay Streets."

Employees reporting to work or having business at the Terminal Company are requested to continue to go about the faithful fulfillment of their respective positions and refrain from entering or leaving the property at Bay and Stuart Streets.

M. C. JENNETTE
M. C. Jennette
President & General Manager

You are reminded that the order of the U. S. District Court that the Florida East Coast Railway Company may handle cars in the yards of the Jacksonville Terminal Company has been made permanent and continues to be in full force and effect. Your continued co-operation and compliance with this NOTICE is appreciated.

M. C. JENNETTE
M. C. Jennette
President & General Manager

TELEGRAM TO FEC RY, ACL RR, SAL RR, SOU RY ANNEXED TO STIPULATION

Telefax

WESTERN UNION

DING BLANK

CALL LETTER _____ CHARGE TO CAK 499-W BANK OF 4

JACKSONVILLE, FLORIDA, JULY 30, 1965

W. L. THORNTON, FEC RY, ST. AUGUSTINE, FLORIDA
L. T. ANDREWS, ACL RR, JACKSONVILLE, FLORIDA
J. L. COOKE, SAL RR, JACKSONVILLE, FLORIDA
H. W. KIRBY, SOU RY, JACKSONVILLE, FLORIDA

IN CONNECTION WITH DESIGNATION OF EMPLOYEE ENTRANCES I HAVE RE-ISSUED MY NOTICE OF JANUARY 30, 1963 TO ALL EMPLOYEES OF JTCO AND MY NOTICE OF FEBRUARY 4, 1963 TO ALL EMPLOYEES OF ACL RR, FEC RY, SAL RR, AND SOU RY, WHICH NOTICES WERE POSTED IN BULLETIN BOOKS US TELEGRAPH OFFICE. COPIES OF NOTICES BEING FORWARDED BY MAIL. PLEASE RE-ISSUE PROPER INSTRUCTIONS TO COVER. JOINT WLT LEA JLC DWK.

H. C. JERNETTE

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—(R 4-55)

EXCERPTS FROM JOINT APPENDIX IN CASE NUMBER 19,084 STYLED I. B. E. W., ET AL., VS. N. L. R. B., 350 F2d 791 (CCA D. C. 1965) ANNEXED TO STIPULATION

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

IN CHANCERY.

July 29, 1966

VII. The International Unions, Their Subordinate Bodies and Railway Employee Representation

65. Four of the International Unions involved in the 1961 wage and rule dispute with the FEC are:

International Brotherhood of Electrical Workers
(The Constitution of this organization is Exhibit 34).

International Association of Machinists
(The Constitution of this organization is Exhibit 35).

Sheet Metal Workers International Association
(The Constitution of this organization is Exhibit 36).

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmitns, Forgers and Helpers
(The Constitution of this organization is Exhibit 37).

66. The International Brotherhood of Electrical Workers has approximately 800,000 members of whom approximately 20,000 are employed by employers subject to the Railway Labor Act, and most of the balance are employed by employers within the meaning of Section 2(2) of the National Labor Relations Act. The Railroad employees are in approximately 250 lodges out of about 1800 subordinate bodies.

67. The International Association of Machinists has approximately 800,000 total membership of whom approximately 48,000 are employed by employers subject to the Railway Labor Act, and most of the balance are employed by employers within the meaning of Section 2(2) of the National Labor Relations Act. The railroad employees are in approximately 370 lodges out of about 3,725 subordinate bodies.

68. The Sheet Metal Workers International Association has approximately 118,000 members of whom approximately 10,400 are employed by employers subject to the Railway Labor Act, and most of the balance are employed by employers within the meaning of Section 2(2) of the National Labor Relations Act. The railroad employees are in approximately 220 locals out of about 515 subordinate bodies.

69. The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers has approximately 120,000 members of whom approximately 4,400 work for employers subject to the Rail-

way Labor Act and most of the balance are employed by employers within the meaning of Section 2(2) of the National Labor Relations Act. The Railroad employees are in approximately 125 locals out of about 435 subordinate bodies.

70. The Brotherhood Railway Carmen and the International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers, are engaged primarily in employee representation in the railway industry.

Portions of Defendant's Exhibit No. 1

CONSTITUTION OF THE BROTHERHOOD OF RAILROAD TRAINMEN

AND

BROTHERHOOD OF RAILROAD TRAINMEN INSURANCE DEPARTMENT

GRAND LODGE

PREAMBLE

Under God's Guidance, to unite the Railroad Trainmen, Bus Employees and Dining Car Stewards, to promote their general welfare and advance their interests, social, moral, political, economic and intellectual; to protect their families by the exercise of benevolence, very needful in a calling so hazardous as ours, this fraternity has been organized.

Persuaded that it is for the interests both of our members and their employers that a good understanding should at all times exist between the two, it will be the constant endeavor of this organization to establish mutual confidence, and create and maintain harmonious relations.

Such are the aims and purposes of the Brotherhood of Railroad Trainmen.

• • • • •

Qualification for Membership

Sec. 110. A candidate for admission to the lodge by initiation or dispensation, shall be employed as a railroad trainman, and/or bus employe, in train, yard and/or bus service, in the jurisdiction of the lodge and on the carrier named in his application, or shall be an employe of the Grand Lodge having two or more years seniority as such. The term "railroad trainman" shall be held to cover the following occupations:

In Road Service—Conductor, assistant conductor, dining car conductor and/or dining car steward, sleeping car conductor, ticket collector, train baggageman, or person performing such duties on the train if such service is classified under any other name, brakeman and train flagman.

In Yard Service—General yardmaster, assistant general yardmaster, yardmaster, assistant yardmaster, yard conductor, foreman, flagman, brakeman, switchman, switchtenders, handling ground switches thrown manually or by any form of energy from shanty or tower, car retarder operator, gas hump riders, car operators, or persons performing the duties of such positions and paid the compensation therefor, if occupation is given under any other name.

Employes in train or yard service of interurban electric railways, or of surface electrical railways, who come in contact and work with men employed on railways or bus lines and are subject to and governed by rules and regulations of the operating department which governs the railway or bus line employes, shall be elibigle to membership. The President of the Brotherhood may place any interpretation on the words "railroad trainmen" and "bus employe"

as used in this Section, that conditions, in his opinion, may justify.

The applicant shall be male, sober, industrious and of good moral character. He shall be examined by the medical examiner of the Insurance Department if he desires insurance, except as provided in Insurance Rule 10. If no insurance is desired, he shall execute the prescribed form furnished by the General Secretary and Treasurer, and his failure to participate in the Insurance Department shall not disqualify him for membership in the Brotherhood.

An application for membership shall not be considered if the applicant is known to have ever taken the place of anyone engaged in a strike conducted by a legally organized body recognized by the Brotherhood as a legitimate organization.

No provision of this Section shall have any application or validity which is in violation of or in conflict with, the laws of the United States, Canada, or any state, territory, or province, or of the District of Columbia, as contained in statutes, executive orders or court decisions, or which would limit or deny to the Brotherhood the full exercise of legal rights and privileges; and such laws shall supersede this provision or parts thereof to the extent necessary to bring about conformity thereto and required to permit the full exercise of legal rights and privileges by the Brotherhood.

• • • • •

Defendant's Exhibit No. 2

OPERATING AND GUARANTY AGREEMENT

JACKSONVILLE TERMINAL COMPANY

WITH

ATLANTIC COAST LINE RAILROAD COMPANY,

TRUSTEES OF

FLORIDA EAST COAST RAILWAY COMPANY,
SEABOARD AIR LINE RAILROAD COMPANY,
SOUTHERN RAILWAY COMPANY,
GEORGIA SOUTHERN AND FLORIDA
RAILWAY COMPANY

AND

UNITED STATES TRUST COMPANY
OF NEW YORK

AND

GUY W. BOTTS,

AS TRUSTEES.

Dated as of December 1, 1947

EXHIBIT "A"

AN AGREEMENT, made and entered into this 1st day of December, 1947, by and between

JACKSONVILLE TERMINAL COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Florida, hereinafter for convenience styled the Terminal Company, party of the first part;

ATLANTIC COAST LINE RAILROAD COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Virginia, hereinafter for convenience styled the Coast Line Company, SCOTT M. LOFTIN and JOHN W. MARTIN, as Trustees of the Properties of Florida East Coast Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Florida, hereinafter for convenience styled the East Coast Trustees, SEABOARD AIR LINE RAILROAD COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Virginia, hereinafter for convenience styled the Seaboard Company, SOUTHERN RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Virginia, hereinafter for convenience styled the Southern Company, and GEORGIA SOUTHERN AND FLORIDA RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Georgia, hereinafter for convenience styled the Georgia Company, parties of the second part; said parties of the second part being hereinafter for convenience styled the Railway Companies, when referred to collectively; and the said Coast Line Company, East Coast Trustees, Seaboard Company and Southern Company, when referred to collectively and when the purpose is to exclude the Georgia Company, being hereinafter for convenience styled the Guarantor Companies; and

UNITED STATES TRUST COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York and FRANK J. WIDEMAN as Trustees under the First Mortgage of the Terminal Company, dated December 1, 1947, hereinafter for convenience styled the Trustees, parties of the third part;

WITNESSETH: That

WHEREAS, the Railway Companies severally own and operate or use lines of railroad entering the City of Jacksonville, in the State of Florida, and are engaged in the operation of passenger and freight trains, and the transportation of passengers and property thereon, to and from the said City of Jacksonville; and

WHEREAS, the Guarantor Companies own or control a majority in interest of the capital stock of the Terminal Company; and

WHEREAS, the Terminal Company owns in the said City of Jacksonville a modern and commodious passenger station and terminal facilities, including necessary tracks and facilities suitable for the handling of passenger trains and for the convenience of passengers of the Railway Companies, and the necessary railway tracks extending from said passenger station to connections with the tracks of the Railway Companies in and about the City of Jacksonville; together with facilities for the interchange of freight cars between the Railway Companies, for the serving of industries located on or adjacent to its property, and for connections between the freight yards of the Railway Companies and its interchange freight yard; and

WHEREAS, the Terminal Company, Coast Line Company, Florida East Coast Railway Company, Seaboard Air Line Railroad Company, (as successor in interest to Seaboard Air Line Railway Company), Southern Company and United States Trust Company of New York, as Trustee, are parties to an agreement dated June 1, 1917, and an agreement supplementary thereto dated October 1, 1921; and the Terminal Company, Coast Line Company, William R. Kenan, Jr. and Scott M. Loftin, as Receivers of the Properties of Florida East Coast Railway Company, Legh R. Powell, Jr. and Henry W. Anderson, as Receivers of the Properties of Seaboard Air Line Railway Company, Southern Company and United States Trust Company of New York, as Trustee, are parties to an agreement dated April 4, 1939, and Georgia Company, Coast Line Company, Florida East Coast Railway Company, Seaboard Air Line Railroad Company (as successor in interest to Seaboard Air Line Railway Company), Southern Company and Terminal Company are parties to an agreement dated June 1, 1917, all relating, among other things, to the use by the Railway Companies of said passenger and freight terminal facilities of the Terminal Company at Jacksonville, Florida, and all being hereinafter collectively referred to as the Operating Agreements; and

WHEREAS, the East Coast Trustees (Scott M. Loftin and John W. Martin) are the duly appointed, qualified and acting Trustees of the Properties of Florida East Coast Railway Company, and the Seaboard Air Line Railroad Company is the successor in interest of the Seaboard Air Line Railway Company; and

WHEREAS, the East Coast Trustees have not adopted or rejected the Operating Agreements (the time to act on the

Operating Agreements having been extended by orders of the court administering the Estate of Florida East Coast Railway Company), the East Coast Trustees, since their appointment, have continued the use of said terminals and facilities and have made the payments currently required to be paid by the said East Coast Company under the terms of said Operating Agreements without adopting the said agreements and the obligations of the East Coast Company thereunder, otherwise than as provided in said agreement of April 4, 1939; and

WHEREAS, the Terminal Company proposes to execute and deliver to the Trustees, with the consent and approval of the Railway Companies and pursuant to due corporate action, and, with due authority of the Interstate Commerce Commission, a new First Mortgage, bearing date of December 1, 1947, to secure not exceeding Five Million Dollars ($5,000,000) principal amount, of its new First Mortgage Bonds, issuable in lettered series, and payable not later than December 1, 1977, of which Four Million Dollars ($4,000,000) principal amount, denominated Series A, are to be issued immediately and are to be used in taking up, cancelling and retiring One Hundred Thousand Dollars ($100,000) principal amount, of the Terminal Company's First and General Mortgage Bonds, now outstanding, and Three Million Nine Hundred Thousand Dollars ($3,900,000) principal amount, of the Terminal Company's Refunding and Extension Mortgage Bonds, now outstanding (whereupon the Terminal Company will cause the said Mortgages to be satisfied and released of record); and

WHEREAS, in order to enable the Terminal Company to sell and dispose of its said Bonds and to obtain the joint

and common use of said passenger and freight terminal facilities, the Railway Companies are willing to agree with each other and with the Terminal Company and the Trustees that they will use, jointly and in common, for their passenger service the said terminals of the Terminal Company, and for their interchange freight business the interchange freight yard of the Terminal Company, (and no other except as herein otherwise provided in Article TWENTIETH hereof), for the conduct of their said passenger business and interchange freight business in the said City of Jacksonville, for and during the life of this agreement, it being understood that the Railway Companies are to have the right, at their option, to the use of other freight tracks and facilities of the Terminal Company in the handling of their freight business other than interchange; provided, that interchange between the Southern Company and the Georgia Company on their present interchange tracks shall be excepted from the obligations of this paragraph.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That the Terminal Company, for and in consideration of the covenants of the Railway Companies hereinafter expressed, hereby covenants and agrees:

THAT it will, and it hereby does, grant unto the Railway Companies, parties of the second part hereto, and to their respective successors and assigns, severally, the equal right to use in common, for the accommodation of their passenger and freight traffic in the City of Jacksonville, with the right in the Southern Company to include in its use the passenger and freight traffic of the Georgia Company, its successors and assigns,

ALL AND SINGULAR, the passenger and freight terminal facilities of the Terminal Company in the City of Jacksonville and State of Florida, including the passenger station building situated on the south side of West Bay Street, and the train sheds, tracks and yards of the Terminal Company in connection therewith, and all after-acquired property used in connection therewith or in substitution therefor;

TOGETHER with all the houses, offices, express, baggage and waiting rooms, platforms and appurtenances, and yard, shop and repair and other services, facilities and privileges, of whatsoever nature, to the said station building, tracks and property belonging, or in any wise appertaining, which may be necessary for the movement of trains and the use, comfort and convenience of passengers, and handling of baggage, mail and express, the transportation, movement and switching of loaded and empty freight cars, and the transaction of passenger and freight business at said City of Jacksonville, excepting only such parts thereof as the Terminal Company may lease to third persons for the handling of express, maintenance of telegraph stations, restaurants, news stands, and other facilities necessary for the convenience of the traveling public, or as may be, by special arrangement not objected to by any of the Railway Companies, occupied by any one or more of the Railway Companies, or by third persons for office or other purposes.

TO HAVE AND TO HOLD the said rights for the full term of thirty (30) years, beginning on the first day of December, 1947, and thence next ensuing; upon the Railway Companies, respectively, severally faithfully performing each and every their covenants in this agreement contained; and

YIELDING AND PAYING as rental for, and as costs to maintain and operate, the properties of the Terminal Company,

the sums on the dates and in the manner hereinafter described, each of the Railway Companies agreeing severally to pay the proportion thereof hereinafter shown, viz.:

(1) A sum or sums equal to the interest upon the First Mortgage Bonds of the Terminal Company, issued under its First Mortgage dated December 1, 1947, of which the United States Trust Company of New York and Frank J. Wideman are Trustees, which may be outstanding at any interest date;

(2) A sum or sums equal to interest, at rates to be agreed upon by the Board of Directors of the Terminal Company, payable by the Terminal Company upon the amount of cash advances made by the Railway Companies to the Terminal Company at any time outstanding;

(3) A sum or sums equal to the interest actually paid by the Terminal Company upon money borrowed from banks or others;

(4) A sum or sums equal to the net deficit from operations of the terminal facilities jointly used by the Railway Companies;

and the Guarantor Companies similarly agree severally to pay the proportion hereinafter shown of:

(5) A sum or sums equal to the net loss or deficit from property owned, or which may be hereafter acquired in accordance with this agreement, by the Terminal Company, not used by it for terminal or transportation purposes.

The Guarantor Companies further agree that they will severally advance to the Terminal Company in equal pro-

portions, i.e., one-fourth (¼th) each, on open account bearing interest at the rate of three per cent. (3%) per annum a sum or sums equal to the amount required each year for the annual sinking fund installment upon the First Mortgage Bonds of the Terminal Company theretofore issued, such advances to be made at such time or times as may be specified by the Board of Directors of the Terminal Company by written notice to the Guarantor Companies.

IT IS HEREBY MUTUALLY AGREED BY AND BETWEEN THE TERMINAL COMPANY AND THE RAILWAY COMPANIES:

FIRST: That the Terminal Company will cause its accounts and records to be kept in accordance with the methods prescribed by the rules, regulations and classifications of the Interstate Commerce Commission, and that it will permit such accounts and records to be examined and audited, from time to time, by accredited representatives of the Railway Companies, respectively.

SECOND: The investment of the Terminal Company in properties and facilities, recorded value as of June 30, 1947, is hereby, for the purposes of this agreement, assigned by the Guarantor Companies and the Terminal Company to each of the several classes of property owned by the Terminal Company as follows; said amounts so assigned being hereinafter sometimes referred to as value or values:

(a) Values of definitely separable parcels of land, together with any improvements thereon, not used for or in connection with transportation purposes by the Railway Companies (such values to be assigned under the head "Miscellaneous Physical Property"), $121,769.23.

(b) Values of properties used for transportation or terminal purposes by or for account of the Railway Companies. The values provided for in this paragraph (b) include values of lands, tracks, buildings, equipment, and all costs incurred in connection with the terminal properties proper, which may be properly classified as and charged to "Road and Equipment Property." The values described in this paragraph (b) being subdivided into:

(1) Value of facilities used in connection with passenger service including rolling stock, $4,287,555.79.

(2) Value of facilities used in connection with freight service including rolling stock, $537,369.88.

In the event that a change in conditions shall occur which shall result in a change in the character or use of any determinable part or portion of the properties hereinbefore assigned to any one of the three classes of property, then the amount standing against such part or portion in the above assigned values, if approved by unanimous action of the Directors of the Terminal Company, shall be transferred to that class or classes in which such changed character or use would properly place said part or portion.

There shall be charged and credited to the agreed values assigned as in this Article SECOND provided to the properties described in paragraphs (a) and (b) above, the costs of all additions and betterments, retirements and changes made in the physical property of the Terminal Company, subsequent to June 30, 1947, apportioned according to the classes and subclasses above shown, to the end that the records of the Terminal Company may at all times reflect the proper costs to it, thus subdivided, of its physical property then in existence.

THIRD: That the Terminal Company will cause to be kept daily, separate and accurate records of the number of all cars, which arrive at and depart from the passenger terminal (or which shall be deemed to have so arrived and departed as provided in Article TWENTIETH hereof) in the trains of the Railway Companies, respectively; and that in like manner it will keep daily, separate and accurate records of the number of cars which arrive at and depart from the interchange freight yard or which use (or which shall be deemed to have used, as provided in Article TWENTIETH hereof) the freight facilities of the Terminal Company; PROVIDED, however, that the use of said facilities, passenger and freight, by the Georgia Company, its successors and assigns, shall for the purposes of this agreement, including the basis of rental, be treated as if such use were that of the Southern Company, and PROVIDED FURTHER, that the following freight train cars shall not be counted as having used the facilities of the Terminal Company: (a) those of the Coast Line Company and East Coast Trustees because of their use of a certain ladder track, and its appurtenant facilities, of the Terminal Company under and pursuant to the terms, and for the purposes contemplated by, the deed from the Terminal Company to the Coast Line Company and Florida East Coast Railway Company, dated November 6, 1917, providing for the con-joint use of said ladder track; (b) those of the Seaboard Company because of their use of a certain ladder track, and its appurtenant facilities, of the Terminal Company under and pursuant to the terms, and for the purposes contemplated by, the deed from the Terminal Company to Seaboard Air Line Railway Company, dated October 16, 1916, providing for the con-joint use of said ladder track; (c) those of the Coast Line Company by reason of its use of certain facilities of the Ter-

minal Company in connection with the moving of such cars over tracks of the Coast Line Company constructed on the two (2) thirty (30) foot strips of land heretofore conveyed by the Terminal Company to the Coast Line Company, by its deeds dated October 19, 1916, and December 3, 1917, respectively; (d) those of the Seaboard Company by reason of their use of certain facilities of the Terminal Company in connection with the moving of such cars over a track of the Seaboard Company constructed on the thirty (30) foot strip of land heretofore conveyed by the Terminal Company to Seaboard Air Line Railway Company, by its deed dated October 16, 1916; and (e) those of the Coast Line Company moving to and from industries located at or near Broad Street and now served solely by the Coast Line Company; (f) those of the Seaboard Company moving to and from industries located east of Broad Street Viaduct now served solely by the Seaboard Company.

A passenger train car or a freight train car which shall use or shall be deemed, pursuant to Article TWENTIETH hereof, to have used the facilities of the Terminal Company which both arrives and departs in a continuous train movement is to be counted as two cars; that is, as one car in and as one car out, except that no freight car using the facilities of the Terminal Company shall receive a count of more than one upon arrival at Jacksonville nor more than a count of one upon departure therefrom.

Empty passenger train cars switched into the terminal for load or switched out of the terminal after being unloaded, and locomotives and tenders moving into or out of the terminal with or without trains, are not to be included in the count above described.

Monthly reports shall be rendered by the Terminal Company to each of the Railway Companies, on or before the

fifteenth day of each month following that for which made, showing separately, and, by classes, cars using or deemed to have used the passenger facilities, and those using or deemed to have used the freight facilities, respectively, for account of each of the Railway Companies, together with a summary showing the percentage of the total cars of each of the Railway Companies so using or deemed to have used the passenger facilities to the total of all such cars using the passenger facilities, and in like manner the percentage of the total cars of each of the Railway Companies so using or deemed to have used the freight facilities to the total of all cars using the freight facilities, and the percentages thus determined shall represent the measures of use by each of the Railway Companies of the passenger facilities and of the freight facilities, respectively, of the Terminal Company.

FOURTH: That the Terminal Company will cause to be kept separate and accurate records of accounts of revenues and income derived from, and expenses, taxes and all other costs (except interest on its bonds and other indebtedness) incurred in the maintenance and operation of each of its several classes of property, viz:

(a) Its facilities devoted to the passenger service;

(b) Its facilities devoted to the freight service;

(c) Its other physical property not used for or in connection with its terminal or transportation facilities;

by charging against each said class, on the one hand, all expenses incurred in the maintenance and operation of each of the several classes of property, including depreciation

(accrued as provided in Article TENTH hereof), taxes as they may accrue, and an equitable proportion, respectively, of all general or administrative costs, (including expenses incurred by the Terminal Company, with the approval of the Guarantor Companies, in connection with the refinancing being accomplished through the issuance of its First Mortgage Bonds of Series A, under its First Mortgage dated December 1, 1947, including, but without limitation thereto, premiums payable upon call of indebtedness for payment or redemption, issuance taxes, recordation fees, and printing, legal and accounting expenses), and by crediting, on the other hand, all revenues accrued from rents and all other sources for privileges granted to individuals, firms or corporations, not parties to this agreement, and all revenues received from any of the Railway Companies for space granted for office or other purposes, by special arrangement, as hereinbefore provided in the granting clause hereof.

The difference between the operating costs, taxes, etc., on the one hand, and the revenues accrued, on the other, shall represent the net operating profit or deficit from operations of each of the three classes of property above described. From such profits there shall be deducted, or to such deficits there shall be added, all income charges, other than interest on its bonds and other indebtedness, which may be incurred by the Terminal Company in the operation of its properties and the net profit or deficit thus determined shall represent the amounts to be credited to or paid by the Railway Companies, in the manner hereinafter described, as representing profits from or net costs to maintain and operate the properties of the Terminal Company. In the event that the method of keeping the accounts as outlined

above proves to be impracticable, some other method may be adopted at any time and from time to time, with the unanimous consent of the Board of Directors of the Terminal Company.

FIFTH: That the Terminal Company will cause to be rendered to each of the Railway Companies on or before the twentieth day of each month following that for which rendered, in such detail as may be required and agreed upon by the Railway Companies, statements of operating revenues and operating expenses, taxes and other charges, and the net profits or deficits from each of the three classes of property herein described.

SIXTH: That the net cost, exclusive of interest or rental, to each of the Railway Companies to maintain and operate the properties of the Terminal Company used for transportation purposes shall be determined by the Terminal Company monthly and paid in monthly settlements by the Railway Companies, severally and respectively, in the following manner, viz:

(a) The passenger costs to each of the Railway Companies shall be the sum determined by applying the percentage of use of the passenger facilities as defined in Article THIRD, preceding, to the net cost or deficit to maintain and operate such passenger facilities.

(b) The freight costs to each of the Railway Companies shall be the sum determined by applying the percentage of use of the freight facilities as defined in Article THIRD, preceding, to the net cost or deficit to maintain and operate such freight facilities.

(c) The Terminal Company shall, not earlier than five (5) days after the rendition of the monthly statements of operations, provided for in Article FIFTH hereof, draw sight draft upon each of the Railway Companies for its proportion of such net costs or deficits from operations for the preceding month;

PROVIDED, however, that if at any time during the life of this agreement the Terminal Company should not have sufficient funds to pay the current operating deficits referred to in Article FOURTH hereof the Railway Companies agree to each honor the Terminal Company's draft any time after the first day of such current month for their respective proportions (computed on user percentages for the next preceding month) of (i) the amount of the estimated deficit of the character referred to in said Article FOURTH for such current month, or (ii) of such specific items of expense of the character referred to in said Article FOURTH as shall be authorized by unanimous action of the respective Chief Accounting Officers of the Railway Companies, and that thereafter, as soon as may be, the account shall be definitely stated and settled between the parties hereto on the basis of the actual net deficit and user percentages for the current month, it being understood and agreed that all of the several statements of user percentages, operating costs, etc., shall be subject to check and verification by the Railway Companies, respectively, and that any and all adjustments found to be proper shall be made by the Terminal Company in its accounts for the month during which such adjustments shall have been found to be proper.

SEVENTH: That the net cost, exclusive of interest and sinking fund requirements, to maintain and operate the

miscellaneous physical property of the Terminal Company not used for or in connection with terminal or transportation facilities shall be determined by the Terminal Company and charged to and paid by the Guarantor Companies, respectively, monthly, on bills or statements to be rendered by the Terminal Company, in equal proportions, i.e., one-fourth (¼th) each.

EIGHTH: That the interest upon the Mortgage Bonds and other indebtedness of the Terminal Company at any time outstanding, designated as rental, shall be determined by the Terminal Company and paid by the Railway Companies, respectively, in the following manner, viz:

(a) On or before the twentieth day of each May and of each November, during the life of this agreement, the Terminal Company shall determine, and render to each of the Railway Companies statements showing the total interest which will be due upon all outstanding Mortgage Bonds of the Terminal Company on the respective next ensuing due date, that is to say, on the first day of each June and on first day of each December, respectively, which statements shall also show the apportionment of such interest requirements among the Railway Companies, as follows:

(i) The amount due (except one-eighth (⅛th) of the interest on First Mortgage Bonds of Series A which shall be apportioned as stated in the next paragraph and upon advances for sinking fund which shall be apportioned as stated in subdivision (b) below) shall first be allocated to passenger service and to freight service in the proportions that the respective values of each of the two classes, determined as

provided in Article SECOND hereof, bears to such aggregate value of said two classes of facilities; the amounts so allocated to freight service and to passenger service shall be apportioned among the Railway Companies in proportion to the use of each service by each Railway Company during the six (6) full calendar months next preceding each respective said twentieth day of May and November, such use to be determined by taking user percentages of the cars using the passenger and freight facilities, respectively, as calculated from the reports rendered under Article THIRD hereof for the six (6) months upon which such calculation is based.

(ii) The remaining one-eighth (⅛th) of the interest on First Mortgage Bonds of Series A included in said amount of interest due shall be apportioned among the Guarantor Companies in equal proportions, i.e., one-fourth (¼th) each.

(b) Interest on advances for sinking fund shall be on same basis as interest on bonds.

(c) All interest payable by the Terminal Company, as aforesaid, other than that upon the First Mortgage Bonds and upon sinking fund advances, shall be determined by the Terminal Company ten (10) days before such interest shall become due and the Terminal Company shall then on that day render statements to the Railway Companies showing the total of such interest, which statements shall also show the apportionment of such interest among the Railway Companies in the following manner:

Interest due (except as stated in the next sentence) shall first be allocated between passenger

service and freight service in the proportions that the respective values of each of the two classes of facilities determined as provided in Article SECOND hereof, bears to such aggregate value of said two classes of facilities, and the interest so allocated to each respective service shall then be apportioned among the Railway Companies in proportion to the use of each service by each Railway Company during the six (6) full calendar months next preceding the date upon which said statements are prepared. Interest due, properly chargeable to miscellaneous physical property, shall be apportioned among the Guarantor Companies in equal proportions, i.e., one-fourth (¼th) each.

NINTH: That each of the Railway Companies will pay unto the Terminal Company, on or before the 24th day of each month preceding the month in which any interest requirements are due, its proportion of interest requirements determined as hereinbefore in Article EIGHTH set forth and that the Terminal Company will apply such payments to the installments of interest requirements covered by such payments.

TENTH: That the Terminal Company will accrue depreciation upon its equipment and its fixed operating physical property at rates and values which have been or may, from time to time hereafter, be ordered, prescribed or approved by the Interstate Commerce Commission, and that such depreciation thus assessed shall be considered as an operating cost of the Terminal Company chargeable to its passenger or freight service, as the case may be, and that the moneys paid by the Railway Companies to the Terminal

Company for or in connection with such depreciation charges so assessed shall be set aside by the Terminal Company and used only for the purpose of renewing equipment and fixed operating physical property of the Terminal Company, as such renewals may be found to be necessary, and for additions and betterments to its property subject to the approval of the Board of Directors of the Terminal Company or for such other corporate purposes as the Board of Directors may determine with the unanimous consent of the Guarantor Companies.

ELEVENTH: That in the event there should, as a result of operations of either of the three classes of property herein described, be a net profit to the Terminal Company from such operations during any one month or a series of months, such net profit shall be credited on the books of the Terminal Company to each of the Guarantor Companies in equal proportions, and that such credit thus given shall be applied to and deducted from the rental due by the Guarantor Companies respectively for the period in which such profit may accrue.

TWELFTH: That in the event the Guarantor Companies shall advance funds to the Terminal Company for construction purposes, or in case the Terminal Company shall, with the consent of all of the Guarantor Companies, borrow money from banks or others, for such purposes, the interest which may accrue upon such advances or loans shall, during the period of construction, be charged to the cost of such construction and contributed during the period of construction by the Guarantor Companies, respectively, in equal proportions. After completion of construction, such interest shall be included in and as a part of the interest accrued as provided for in Article EIGHTH (c) hereof.

THIRTEENTH: That in addition to all other rents and moneys herein agreed to be paid, each of the Railway Companies, parties hereto, will also pay unto the Terminal Company in monthly settlements, during the term hereby created, all reasonable and proper bills rendered by the Terminal Company for cleaning cars, hostling and caring for locomotives, for all necessary running repairs done upon or supplies furnished to its cars and locomotives, and any other direct service or exclusive service rendered by the Terminal Company for or on its account, bills therefor to be presented monthly by the Terminal Company for the preceding calendar month, and paid within thirty (30) days thereafter; PROVIDED, however, that nothing herein contained shall be construed as imposing an obligation upon the Railway Companies, or any of them, to have their cars or locomotives, or any of them, cleaned, serviced or repaired by the Terminal Company, or to purchase any supplies therefor from the Terminal Company, but the Railway Companies, or any of them, may, if they shall so elect, require the performance of such service by the Terminal Company, upon payment, as aforesaid, of reasonable and proper charges therefor, and PROVIDED FURTHER that the Terminal Company shall not be required to furnish new facilities for such services without unanimous consent of the Board of Directors.

FOURTEENTH: That the Terminal Company will maintain the said passenger station and terminal facilities at all times during the life of this agreement in a manner satisfactory and acceptable to said Railway Companies, looking to the safe and proper conduct of the business of the Railway Companies in and about the said station and terminal facilities and the operation of the trains of the Railway Companies upon the said tracks of the Terminal Company.

FIFTEENTH: That the Terminal Company shall and will at all times during the term of this agreement maintain and renew its corporate existence and organization, so long as permitted by law so to do, and at all times and from time to time during said term shall and will put forth and exercise each and every corporate power and do each and every corporate act which the Terminal Company might now, or at any time hereafter, put forth or exercise to enable each of the Railway Companies to enjoy and avail itself of and exercise every right, franchise and privilege hereby granted, according to the terms of this agreement, and will not commit or omit, or suffer or allow to be committed or omitted, any act whereby its corporate existence or powers may be annulled, abridged or affected.

SIXTEENTH: To the end that purchasers of all First Mortgage Bonds, Series A, issued by the Terminal Company under said First Mortgage dated December 1, 1947, may have evidence of and may enjoy the security intended to be afforded by this agreement, the Guarantor Companies hereby agree with one another and with the other parties hereto to guarantee jointly and severally to the holders of all said First Mortgage Bonds, Series A, that shall be issued under said First Mortgage of the Terminal Company dated December 1, 1947, the due and punctual payment of the principal and interest of each and every of said First Mortgage Bonds, Series A, and the Sinking Fund payments thereon, and to that end, the Guarantor Companies will execute an instrument of guaranty endorsed upon each of said First Mortgage Bonds, Series A, in the following form, viz.:

"GUARANTY"

"For Value Received, Atlantic Coast Line Railroad Company, Scott M. Loftin and John W. Martin, as Trustees of the Properties of Florida East Coast Railway Company, but not individually, Seaboard Air Line Railroad Company, and Southern Railway Company, by due authority (obtained as to said Trustees by order entered, respectively, in the Causes in which said Trustees have been appointed) hereby jointly and severally unconditionally guarantee to the holder of the within bond the due and punctual payment of the principal thereof and of the interest thereon; and the payment when due of all moneys required to be paid into the Sinking Fund referred to in the within bond; and in case of the failure of the Jacksonville Terminal Company punctually to pay the same, do hereby jointly and severally agree punctually to make such payments. Such guaranty of said Trustees is made pursuant to and is subject to the provisions of an agreement dated as of December 1, 1947 between Jacksonville Terminal Company, Atlantic Coast Line Railroad Company, said Trustees, Seaboard Air Line Railroad Company, Southern Railway Company, Georgia Southern and Florida Railway Company and United States Trust Company of New York and Frank J. Wideman as Trustees under the First Mortgage dated December 1, 1947 of Jacksonville Terminal Company.

"In Witness Whereof, the said Companies and Trustees have duly executed this guaranty.

Atlantic Coast Line Railroad Company,

By.....

Vice President

Scott M. Loftin and John W. Martin,
As Trustees of the Properties of Florida East Coast Railway Company,

By.....

Seaboard Air Line Railroad Company,

By.....

Vice President

Southern Railway Company,

By.....

Vice President."

Neither this guaranty nor the guaranty upon any of the said bonds shall be deemed to be waived or discharged by any extension that any bondholder or the Trustees may give to the Terminal Company, nor by any action of the Trustees or of the Terminal Company, nor in any other way except by the payment in full of said bonds, principal and interest. No provision in this instrument or in said mortgage or bonds is intended in any way to limit, so far as any holder or registered owner of any of said bonds is concerned, the liability of any of the Guarantor Companies upon the guaranty endorsed upon said bonds or in this section set forth, it being the intention of the Guarantor

Companies that said guaranty, so far as said bondholders are concerned, shall be absolute and unconditional. The provisions of this article are for the benefit of said bondholders and of the Trustees.

The obligations of the Railway Companies under this agreement are intended to be, and are agreed to be, solely corporate obligations, and no recourse under or upon any obligation, covenant or agreement of the Railway Companies or any of them contained in this agreement, or under or upon any indebtedness assumed or agreed to be assumed thereunder, or guaranteed or agreed to be guaranteed thereunder or because of the creation thereof, shall be had against any incorporator or past, present or future stockholder, officer or director of any of the Railway Companies or of any predecessor or successor corporation, either directly or through the Railway Companies or any of them, by the enforcement of any assessment or through any receiver, assignee or trustee in bankruptcy, or by any other legal or equitable proceedings, whether for amounts unpaid on stock subscriptions or for stock liability or any other liability or penalty, or on the ground of any representation, implication or inference arising from or concerning the capitalization of the Railway Companies or any of them or of any predecessor, assignee, grantee or successor corporation, or otherwise, and whether by virtue of any statute, constitution, contract (express or implied), rule of law or otherwise, it being expressly agreed and understood that no personal liability whatever shall attach to or be incurred by the incorporators or past, present or future stockholders, officers or directors of the Railway Companies or any of them, or of any predecessor or successor corporation or any of them; any and all personal liability of every name and nature and any and all rights and claims against every

such incorporator and past, present or future stockholder, officer or director being hereby expressly released and waived as a condition of and as a part of the consideration for the execution of this agreement and the agreement to execute and the execution of the guaranty on the First Mortgage Bonds, Series A, of the Terminal Company hereinbefore provided for.

SEVENTEENTH: The obligations of the East Coast Trustees under and in respect of said guaranty to be endorsed on the said bonds of the Terminal Company shall be their obligations solely as Trustees of the properties of Florida East Coast Railway Company, and not individually. The Trusteeship of Florida East Coast Railway Company shall not be terminated nor shall the Trusteeship Estate thereunder be surrendered by the East Coast Trustees, or their successor or successors, unless, as a condition of such termination or surrender, all of the obligations then existing or to accrue, of the East Coast Trustees under said guaranty shall be assumed by Florida East Coast Railway Company, or any other corporation, or any trustee or trustees appointed under the Bankruptcy Act, or any receiver or receivers that shall succeed the East Coast Trustees in the possession of substantially all the lines of railroad comprising the East Coast Trusteeship Estate, whether pursuant to any plan of reorganization under Section 77 of the Bankruptcy Act, or upon foreclosure or upon dismissal or termination of the Trusteeship, or otherwise. In any such case the obligation assumed by Florida East Coast Railway Company or any other corporation shall be a general unsecured obligation without a lien on any of its property and the obligation assumed by any such trustee or trustees, receiver or receivers, shall be similar to the obligation of

the East Coast Trustees under this agreement and the agreement of assumption shall include an agreement by such trustee or trustees, receiver or receivers, as to assumption of the guaranty upon termination of the trusteeship similar to the provision herein contained as to assumption of the guaranty upon termination of the trusteeship. In case of any sale or conveyance of substantially all of said lines of railroad of Florida East Coast Railway Company, the purchaser or transferee of the purchaser shall not be at liberty to refuse to accept said guaranty or to disaffirm said guaranty of the East Coast Trustees but if acquiring substantially all of said lines of railroad for the purpose of transferring them to a corporation formed for the purpose of reorganization, any such purchaser shall not incur any personal liability under or in respect of said guaranty, provided such corporation to which substantially all of said lines of railroad are so transferred in such reorganization shall assume (as a general unsecured obligation without any lien upon any of its property) all obligations of the East Coast Trustees under said guaranty. In case any corporation or any such trustee or trustees, receiver or receivers, shall succeed the East Coast Trustees in the possession and operation of substantially all of said lines of railroad of Florida East Coast Railway Company or any corporation formed for the purpose of reorganization, or any other corporation or any trustee or trustees, receiver or receivers, appointed to take title to substantially all of said lines of railroad (upon the dismissal for any reason of the Bankruptcy proceedings), and shall so assume all the obligations of the East Coast Trustees then existing and to accrue under said guaranty, the East Coast Trustees shall thereupon be relieved from all further liability under or in respect of said guaranty, provided that Florida East Coast

Railway Company, or such other corporation, or such trustee or trustees, receiver or receivers, as the case may be, acquiring said lines of railroad, shall execute an instrument or instruments satisfactory to the Trustees, whereby Florida East Coast Railway Company, or such other corporation, or such trustee or trustees, receiver or receivers, shall so assume the obligations then existing, or to accrue, of the East Coast Trustees under said guaranty. Upon such acquisition and assumption, Florida East Coast Railway Company, or such other corporation or such trustee or trustees, receiver or receivers, shall be substituted for the East Coast Trustees under said guaranty to the same effect as if named in said guaranty in lieu of the East Coast Trustees.

AND THE RAILWAY COMPANIES, EACH FOR ITSELF AND NEITHER FOR THE OTHERS, HEREBY COVENANT AND AGREE:

EIGHTEENTH: That they will pay the rentals and charges hereinbefore specified unto the Terminal Company in the amounts and at the times hereinbefore stated.

NINETEENTH: That in the event the Terminal Company shall, having first obtained the unanimous consent of the Guarantor Companies as hereinafter required, at any time hereafter make any extraordinary expenditures, of the character properly chargeable to capital account, for additions to or improvements upon its station building, or terminal facilities, for the accommodation of the passenger or freight traffic then handled or proposed to be handled therein, for which bonds or other securities may be issued by the Terminal Company, the Railway Companies, parties hereto, will pay unto the Terminal Company in addition to all

other payments hereby reserved and agreed to be paid, such aggregate sum as will be equivalent to the interest charges upon such bonds or other securities which the Terminal Company issues against all such extraordinary expenditures actually made by it for the purpose aforesaid, such additional sum to be contributed and paid by the Railway Companies, respectively, in the same proportions and manner as is hereinbefore provided in Article EIGHTH (c), it being understood that in the event such extraordinary expenditures as are herein referred to are authorized, the Terminal Company will, with the approval of its Board of Directors, make appropriate apportionment of such expenditures to the classes of its facilities described in Article SECOND hereof.

TWENTIETH: That they, the Railway Companies, will use the said station building and passenger facilities and interchange freight yard of the Terminal Company (and no other save as in this Article hereinafter provided), for the handling of all of their passenger train business, including trains containing mail, baggage and express as well as passengers and for the handling of all the freight business interchanged between the parties hereto, or any of them, in the City of Jacksonville for and during the full term hereby created; provided that interchange between the Southern Company and the Georgia Company on their present interchange tracks shall be excepted from the obligations of this paragraph; and this undertaking shall, to the extent not inconsistent with any of the provisions of Article SEVENTEENTH hereof, be binding upon the Railway Companies, and their respective successors and assigns (the words "successors and assigns" as used in this paragraph shall, in the case of the East Coast Trustees, be held to include any suc-

cessor Trustee or Trustees of the properties of Florida East Coast Railway Company hereafter appointed, and upon termination of the Trusteeship, the Florida East Coast Railway Company, if it come into possession of said property, or any person or corporation who may acquire said properties whether by purchase or otherwise) with like effect as a covenant real running with the land; the intention hereof being by this agreement to create an obligation upon the owners or lessees of the lines of railroad entering Jacksonville now owned or operated by the respective Railway Companies, and upon their respective successors and assigns in respect to said lines, whosoever they may be and howsoever they may acquire their title, and a like obligation upon the Southern Company, which now uses the tracks of the Coast Line Company in entering the said City of Jacksonville, and its successors or assigns in respect to such use of said passenger facilities and interchange freight yard, to do and handle all their passenger, mail and express business and all the freight business interchanged between the parties hereto, or any of them, in the City of Jacksonville in the said passenger terminal and interchange freight yard of the Terminal Company and no other throughout the term of the life of this agreement; PROVIDED, however, that any of the Railway Companies may, if it so elect, use auxiliary passenger stations within the city limits of Jacksonville; cars in trains operated to, through or from such auxiliary stations which may not arrive or depart from the main terminal station to be counted just as if such cars and trains did go into the main terminal station covered by this agreement; and, PROVIDED FURTHER that any of the Railway Companies, parties hereto, may effect interchange between themselves in their own yards, or elsewhere, as they may elect, with or without using all

or any part of the freight facilities of the Terminal Company; all such cars other than those interchanged between the Southern Company and the Georgia Company on their present interchange tracks to be deemed to have used said freight facilities and to be counted just as if said such cars had used said freight facilities as provided by this Article TWENTIETH.

AND IT IS MUTUALLY COVENANTED AND AGREED:

TWENTY-FIRST; That the use of said station, tracks and facilities of the Terminal Company by the Railway Companies shall be subject to the jurisdiction of the Terminal Company and its duly authorized officers and employees; and the Railway Companies agree that while in or about the said terminal facilities of the Terminal Company, their employees and trains shall faithfully conform to all reasonable and proper instructions and directions of all proper officers of, and will use the proper standard time prescribed by, the Terminal Company; PROVIDED, however, that the President or General Manager, or any other officer subject to election by the Board of Directors of the Terminal Company, shall be appointed and serve only by unanimous consent of the Guarantor Companies and shall (any provision of the by-laws of the Terminal Company to the contrary notwithstanding) be dismissed upon the written request of any one of the Railway Companies, and that the dismissal of any subordinate official of the Terminal Company shall be made by the President or the General Manager upon the written request of any one of the Railway Companies. The Terminal Company shall require that the services of all its officers and employees shall be performed without partiality or discrimination as between the Railway Companies.

TWENTY-SECOND: That in the event that any of the Railway Companies, its successors or assigns, shall be in default for sixty (60) days in the payment of any installment of rent or other payments as herein provided to the Terminal Company, or in the performance of any other of its covenants in this agreement contained, then the Terminal Company, acting through its President or Vice President, may, and upon demand of two or more of the Railway Companies shall, after ten (10) days' notice, in writing, exclude such Railway Company so in default and all persons or corporations then enjoying rights in and to the use of said terminal facilities in the right of any of the Railway Companies so in default, from the further use of its said terminal facilities, and all rights of any such defaulting Railway Company and of any person or corporation holding under it, as aforesaid, under this agreement or otherwise in respect to the use of said terminal facilities, shall absolutely cease and determine upon the expiration of such ten (10) days' notice, but this agreement shall nevertheless continue to be binding as between the remaining parties hereto; PROVIDED, however, that no such ouster for any such default as is herein contemplated shall in any manner release such defaulting Railway Company from any obligation to the Terminal Company or other party hereto in its behalf theretofore accrued; and PROVIDED FURTHER, that such defaulting Railway Company shall, notwithstanding such ouster, continue to be liable to the Terminal Company for its proportion of that part of the total rental hereinbefore mentioned, as is payable upon a basis of equal proportions and shall pay same to the Terminal Company at the times hereinbefore stated, and in addition, as liquidated damages for such default shall, and it is hereby agreed that it will, at the times hereinbefore stated during the term of this

agreement, pay to the Terminal Company such proportion of that part of the total rental hereinbefore mentioned as is based on user as may be determined by using in lieu of the actual user factors as hereinbefore set forth user factors based on the average use by it and the other Railway Companies of said terminal facilities during the last previous six (6) months (or shorter period if default occur in less than six (6) months) for which the accounts of the Terminal Company shall have been stated, as hereinbefore provided, prior to said default; and PROVIDED FURTHER, that the Terminal Company shall apply said sums, so to be paid to it by any such defaulting Railway Company, in the manner and at the times hereinbefore stated, to the payment of interest and the defrayal of the operating and maintenance expenses of said terminals in the same manner as if said default had not occurred.

Should there be an uncollectible deficit by reason of the determined noncollectibility, in whole or in part, of sums payable hereunder by one or more of the Railway Companies to the Terminal Company, due to insolvency of any such defaulting Railway Company or otherwise, such deficit shall be added to the expenses of the Terminal Company and apportioned and paid by the other Railway Companies accordingly upon the basis and in the manner hereinbefore set forth.

TWENTY-THIRD: That any railway company other than the Railway Companies parties hereto, may be admitted to the common use of the demised premises of the Terminal Company upon such terms and conditions as may be fixed and determined by the Guarantor Companies parties to this agreement.

TWENTY-FOURTH: That the Terminal Company shall not, without the unanimous consent of the Guarantor Compa-

nies not in default, their successors or assigns, create or issue any capital stock or bonds secured by mortgage upon its property, in addition to the stock and bonds now authorized, nor shall it without said consent create any floating debt or unsecured obligation for any purpose other than the ordinary expenses incident to the operation and maintenance of its terminals; nor shall it, without such unanimous consent, make any extraordinary expenditures of the character usually chargeable to capital account, for additions or improvements to said passenger station or terminal facilities, or any part thereof.

TWENTY-FIFTH: In case of loss of or damage to property or injury to persons occurring on the premises of the Terminal Company, the liability therefor and incidence of loss, cost and expense occasioned thereby shall, as between the parties hereto, be upon the basis hereinafter provided, it being agreed that loss, cost and expense herein provided to be borne by the Terminal Company shall be considered as operating expenses of the terminals and apportioned among the Railway Companies accordingly.

(a) Whenever such loss, damage or injury shall be caused solely by the negligence or misconduct of any one of the parties hereto, the loss, cost and expense arising therefrom, shall be borne by that party. Whenever it shall be caused by the joint negligence or misconduct of any two or more of the parties hereto, the loss, cost and expense arising therefrom shall be borne equally by the parties hereto jointly in fault except that each party so in fault shall wholly bear the loss, cost and expense arising from loss or damage (1) to its own property, (2) to property (if not covered by

(1)), in its possession or on its cars, or on cars in its possession, and (3) from injuries to its own employees, and to its passengers while on, boarding or alighting from its train. If loss, damage or injury occur, the cause of which is unknown or which is not attributable to negligence or misconduct on the part of any of the parties hereto then each of the Railway Companies shall bear the loss, cost and expense due to loss or damage (1) to its property, (2) to property (if not covered by (1)) in its possession or on its cars or on cars in its possession, and (3) from injury to its own employees, and to its passengers while on, boarding or alighting from its train, and loss, cost and expense due to loss or damage to other property, or due to injury to other persons shall be included in the expenses of the terminals; PROVIDED, that trains or cars while being shifted by the Terminal Company shall be deemed to be in its possession and custody. Any other railroad company hereafter admitted to the use of the terminals shall assume the same liabilities and responsibilities provided for in this section in connection with the Railway Companies.

(b) In case of damage by fire to rolling stock in possession of a party hereto, the provisions of the preceding paragraph (a) of this Article shall be superseded by the following provisions, to wit: In such case the party in possession shall exclusively assume and bear and indemnify each of the other parties hereto against loss or liability arising therefrom, irrespective of any question of ownership or of negligence or fault; except that loss due to such damage to rolling stock of one of the Railway Companies in possession of the Terminal

Company shall be exclusively borne by such Railway Company.

(c) In case of loss or damage to baggage by fire while under railroad transportation check the above provisions shall be superseded by the following provisions, to-wit:

In such case the sole liability as between the parties hereto shall be upon that one of the Railway Companies in whose possession, as hereinafter defined, said baggage was when damaged and such Railway Company, in possession as aforesaid, hereby releases and agrees to hold harmless each other party hereto, whether or not such loss or damage was caused or contributed to by the negligence of such other party, from loss thereby caused or accruing. The possession of such baggage shall be determined as follows:

(1) Such baggage if checked through Jacksonville shall be considered as in the possession of the Railway Company bringing it thereto until receipted for by a sole employee of the Railway Company which is to move it thence;

(2) Such baggage if checked by one of the Railway Companies at Jacksonville for transportation thence shall be considered in the possession of such Railway Company;

(3) Such baggage if moved into the terminals checked to Jacksonville shall be considered as in the possession of the Railway Company transporting it thereto.

(d) The possession of baggage while on the premises of the Terminal Company under railroad trans-

portation check shall, save in the above mentioned case of loss or damage by fire, be deemed for the purpose of this agreement, to be as follows:

(1) Baggage checked through Jacksonville shall be considered in the possession of the Railway Company bringing it thereto until receipted for by the Terminal Company and thereafter in possession of the Terminal Company until receipted for to it by the outgoing Railway Company;

(2) Baggage originating at Jacksonville shall be considered in the possession of the Terminal Company until receipted for to it by the outgoing Railway Company;

(3) Baggage moving into Jacksonville shall be considered in possession of the incoming Railway Company until receipted for by the Terminal Company.

(e) All claims of persons or corporations other than the parties to this agreement arising out of loss, damage or injury occurring on the premises of the Terminal Company shall, if a question of negligence or fault on the part of the Terminal Company, or of its employees, in the operation or maintenance of said terminals, be to any extent involved, be cared for, dealt with, defended or otherwise disposed of by and in the discretion of the Terminal Company and if suit shall be brought upon any such claim to which the Terminal Company is made a party defendant, it shall assume entire conduct of the defense of such suit; PROVIDED, that this paragraph shall not apply to any such claim or suit if it involves loss of or damage to property in the possession, or on the cars or on cars in the pos-

session, or to injury to employees, or to passengers while on, boarding or alighting from the train, of any of the Railway Companies; PROVIDED FURTHER, that any one or more of the Railway Companies shall be assuming entire responsibility for any such loss, damage or injury in a writing addressed to the Terminal Company, be entitled to handle, dispose of or defend any such claim or suit without interference by the Terminal Company; PROVIDED, that this paragraph (e) shall not be construed as affecting the liability for or incidence of loss, cost or expense, as between the parties hereto, but shall be deemed to relate only to the method of handling of such claims and suits.

TWENTY-SIXTH: That if, at any time, a difference of opinion or dispute shall arise between any two or more of the parties hereto in respect to any of the provisions of this agreement, or as to their respective rights, liabilities and duties hereunder, the question so in dispute, if it cannot be settled by the parties themselves, shall be referred to a Board of Arbitration which shall consist of three competent and disinterested persons skilled in such matters, who shall be selected as follows, that is to say, the party or parties desiring such arbitration shall select one arbitrator and the other party or parties to the disagreement or dispute shall select one arbitrator, and the two arbitrators thus chosen shall select an umpire to preside over such arbitration. The party or parties desiring such arbitration shall give written notice of the same to the other party or parties to the dispute, stating therein definitely the question or questions in dispute, and naming the person selected as arbitrator by the party or parties giving such notice;

and thereupon, it shall become and be the duty of the other party or parties to the dispute, within fifteen (15) days after the receipt of such written notice, to name the arbitrator selected by such other party or parties as above provided; and in the event that such other party or parties to the dispute shall fail to do so, then the party or parties giving such notice may select an arbitrator for such other party or parties to the dispute, and the arbitrators thus chosen shall select an umpire. The Board of Arbitrators, thus constituted, shall give to each of the parties between whom such difference of opinion or dispute shall have arisen notice of the time and place of hearing, which hearing shall not be less than twenty (20) nor more than thirty (30) days after service of such notice; and at the time and place appointed, the said arbitrators shall proceed to the final hearing, unless for good cause shown, of which the arbitrators or a majority of them shall be the judge, such hearing shall be postponed until some later date. The determination of the Board of Arbitrators, so constituted, or a majority of them, shall be made in writing, and a report thereof delivered to each of the parties between whom such difference of opinion or dispute shall exist within sixty (60) days from the date of appointment of the umpire to be chosen by the said arbitrators, unless the parties in dispute shall agree to enlarge the time within which such report may be so rendered, and such determination, when so made, shall be final and conclusive upon the parties in dispute upon the question or questions submitted to such Board. Said arbitration shall be made a rule of court under the provisions of the Statute Law of Florida. All expenses attending each and every such arbitration shall be borne equally by the parties to the dispute so arbitrated.

It is understood and agreed that any such difference of opinion or dispute may, if the parties to the dispute elect so to do, referred to a single arbitrator instead of to a Board of Arbitrators constituted as hereinbefore provided.

TWENTY-SEVENTH: In case the Terminal Company shall make default in the payment of any installment, or any part of an installment of interest or sinking fund on any of its bonds issued under and secured by its said First Mortgage, dated December 1, 1947, and any such default shall continue for three (3) months, or in case the Terminal Company shall make default in the payment of the principal of any of its said bonds according to the tenor and effect thereof, then the Trustees shall become and be subrogated to all the rights of the Terminal Company under this agreement, and as trustees of an express trust, may demand, sue for if necessary, and collect from the Railway Companies and each of them, and their respective successors and assigns, and the Railway Companies hereby severally agree that they will pay to the Trustees, any and all installments of rent and any and all other sums, which, according to the tenor of this agreement, shall then be due but not paid, or shall thenceforth accrue to the Terminal Company by or from the Railway Companies, and each of them, but all money so collected by the Trustees from the Railway Companies, or any of them, shall by the Trustees be applied to and for the purposes contemplated by this agreement.

TWENTY-EIGHTH: That this agreement is intended to and shall supersede and cancel the said existing Operating Agreements, except as to any unfulfilled or undischarged obligations or liabilities accrued, accruing or which may

hereafter accrue thereunder prior to the redemption of all bonds now outstanding under the aforesaid existing Mortgages; it being understood that the said existing Operating Agreements shall continue in force and effect as to such unfulfilled or undischarged obligations or liabilities until the same have been settled and disposed of.

TWENTY-NINTH: The Trustees are joined as parties to this agreement for the purpose of securing the benefits thereof to the holders of the First Mortgage Bonds of the Terminal Company and for the further security of said bonds.

THIRTIETH: The covenants, conditions and provisions herein set forth shall be binding upon and inure to the benefit of the parties hereto and of their respective successors and assigns (which terms shall, in the case of the East Coast Trustees, include the meaning set forth in Article TWENTIETH hereof).

IN WITNESS WHEREOF, Scott M. Loftin and John W. Martin, as Trustees of the Properties of Florida East Coast Railway Company, have executed these presents pursuant to and in accordance with the provisions of an order issued by the court appointing them as such Trustees, and the other parties hereto have caused these presents to be executed and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, in ten counterparts, each of which shall be deemed an original, as of the day and year first above written.

JACKSONVILLE TERMINAL COMPANY,

(SEAL) By J. L. WILKES
President.

Attest:

J. N. MOORE
Secretary.

ATLANTIC COAST LINE RAILROAD COMPANY,

(SEAL) By F. D. LEMMON
Vice-President.

Attest:

F. J. PRIMOSCH
Assistant Secretary.

SCOTT M. LOFTIN,
JOHN W. MARTIN,
As Trustees of the Properties of
Florida East Coast Railway Company,

SCOTT M. LOFTIN (L. S.)
JOHN W. MARTIN (L. S.)

SEABOARD AIR LINE RAILROAD COMPANY,

(SEAL) By R. P. JONES
Vice-President.

Attest:

W. F. CUMMINGS
Secretary.

SOUTHERN RAILWAY COMPANY,

(SEAL) By JOHN B. HYDE
Vice-President.

Attest:

R. L. EDDINGTON
Assistant Secretary.

GEORGIA SOUTHERN AND FLORIDA RAILWAY COMPANY,

(SEAL) By JOHN B. HYDE
Vice-President.

Attest:

R. L. EDDINGTON
Assistant Secretary.

UNITED STATES TRUST COMPANY OF NEW YORK,

(SEAL) By H. L. SMITHERS
Assistant Vice-President.

Attest:

F. J. KEELER
Assistant Secretary.

FRANK J. WIDEMAN (L. S.)
(Frank J. Wideman)

Motion to Amend Pleadings

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,

IN AND FOR DUVAL COUNTY, FLORIDA.

Defendants, J. E. Eason and T. C. Bolin, by their undersigned attorneys move the Court as follows:

1. For an Order dropping J. E. Eason as a named party defendant, individually and as an official of the defendant, Brotherhood of Locomotive Firemen and Enginemen.

2. To amend all pleadings to reflect the proper spelling of the name of the defendant, T. C. Bolin, which has heretofore been inadvertently mispelled "T. C. Boland."

In support hereof, defendants respectfully show unto the Court that the defendant, J. E. Eason, is neither a member nor an official of the defendant, Brotherhood of Locomotive Firemen and Enginemen, and that the correct spelling of the defendant, T. C. Bolin is "T. C. Bolin" and not as previously alleged "T. C. Boland."

Order on Motion

[Filed July 29, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA.

THIS CAUSE came on to be heard upon the Motion of the defendants, Eason and Bolin, for an Order dropping the defendant, J. E. Eason, as a named party to this cause and further to amend the pleadings herein to reflect the proper spelling of the name of the defendant, T. C. Bolin. It appearing to the Court that the defendant, J. E. Eason, is neither an official nor member of the defendant, Brotherhood of Locomotive Firemen and Enginemen, and that the correct spelling of the defendant Bolin's name is "T. C. Bolin", and that the plaintiff does not object to the entry of this order, it is upon consideration thereof,

ORDERED:

1. The defendant, J. E. Eason, be and he hereby is dropped as a party defendant in so far as he is named as an individual member and official of the defendant, Brotherhood of Locomotive Firemen and Enginemen. Said defendant remains a defendant subject to the orders of this Court so far as he may be affected by virtue of his membership in any of the remaining defendant labor organizations.

2. All pleadings herein be and they hereby are amended to change the spelling of the defendant Bolin's name to "T. C. Bolin."

DONE and ORDERED in Chambers at Jacksonville, Duval County, Florida, this 29th day of July, A. D. 1966.

ROGER J. WAYBRIGHT,
Circuit Judge.

Answers to Interrogatories

IN THE

CIRCUIT COURT

OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

The defendants answer the interrogatories propounded to them by plaintiffs which were served on June 16, 1966, as follows:

1. The names and addresses of the persons who picketed at or near the premises of the Jacksonville Terminal Company on May 4, 1966 are:

T. O. Benson
3644 Spring Park Road
Jacksonville, Florida

W. G. Sapp
Raiford,
Florida

Samuel Bruce
2011 West 14th Street
Jacksonville, Florida

W. F. Ortagus
Rt. 8, Box 537-B
Jacksonville, Florida

H. M. Chastain
205 Herada Street
St. Augustine, Florida

J. E. Pittman
6523 Oriole Avenue
Jacksonville, Florida

J. M. Smith
Box 384 New Smyrna Beach
Florida

O. D. Reynolds
8169 Lodga Avenue
Jacksonville, Florida

C. A. Walker
2467 Patsey Ann Drive
Jacksonville, Florida

J. E. Jones
3317 Killarney Drive
Jacksonville, Florida

K. J. Townsend
4624 Byrd Avenue
Jacksonville, Florida

G. E. Donaldson
5052 Yerkes Street
Jacksonville, Florida

E. M. Solano
5015 Birkenhead Road
Jacksonville, Florida

C. F. James
4084 Ramona Boulevard
Jacksonville, Florida

C. J. Winter
Rt. 6, Box 249
Jacksonville, Florida

O. I. Watts
5470 Winnwood Drive
Jacksonville, Florida

D. B. VanTassell
St. Augustine Road
Jacksonville, Florida

V. R. Rooney
5038 Birkenhead Road
Jacksonville, Florida

C. W. Robbins
2060 Parental Home Road
Jacksonville, Florida

H. W. Smith
3846 Bunnell Drive
Jacksonville, Florida

L. B. Brumit
230 West 64th Street
Opa Locka, Florida

J. B. Carpenter
18021 N. W. 6 Place
Miami, Florida

H. O. Van Arsdall, Jr.
6037 N. W. 9th Court
Hialeah, Florida

R. G. Manet
1610 N. W. 135 Street
North Miami, Florida

A. T. Nordgren
60 N. W. 76 Street, Apt. 6
Miami, Florida

A. L. Bowering
140 W. 28th Street
Hialeah, Florida

W. H. Rhoden
815 N. W. 100 Street
Miami, Florida

L. F. O'Neil
Ft. Pierce,
Florida

P. M. Park
Ft. Pierce,
Florida

J. M. Lindsey
7630 Mayapple Court
Jacksonville, Florida

J. E. Kellum
Palm Valley
Jacksonville, Florida

C. E. Phillips
3926 Sierra Madre Drive N.
Jacksonville, Florida

C. H. Grant
Box 2, 18th Street
Villano Beach, Florida

J. N. Smelcer
3394 Sheridan Road
Jacksonville, Florida

M. T. Whelan
264 Navarre Drive
Miami Springs, Florida

E. C. Edgerton
4420 S. W. 112 Avenue
Miami, Florida

D. Gross
Miami,
Florida

J. E. Hutton
Miami,
Florida

R. J. Marino
2833 N. W. 101 Street
Miami, Florida

J. R. Byrd
4995 E. First Avenue
Hialeah, Florida

A. C. Stiver
4125 N. W. 191 Street
Opa Locka, Florida

P. Albora
1640 S. W. 66 Court
Miami, Florida

W. G. Sherris
10600 Biscayne Blvd.,
Lot 607F
Miami, Florida

J. E. Wiggiam
Ft. Pierce,
Florida

E. M. Bates
621 Lake Drive
New Smyrna Beach, Florida

D. Wright
106 Bay Street
New Smyrna Beach, Florida

J. Powers
Old Mission Road
New Smyrna Beach, Florida

R. G. Hill
520 Dora Street
New Smyrna Beach, Florida

W. C. Griffen
536 Faulkner Street
New Smyrna Beach, Florida

L. A. Woodward
1104 Ingram Road
New Smyrna Beach, Florida

D. S. Didault
612 Dora Street
New Smyrna Beach, Florida

D. M. Bowls
522 Faulkner Street
New Smyrna Beach, Florida

F. A. Craford
1412 Live Oak Street
New Smyrna Beach, Florida

J. Owens
Glencoe Road
New Smyrna Beach, Florida

H. A. Stiger
206 Rush Street
New Smyrna Beach, Florida

R. Land
White Bay Motel
New Smyrna Beach, Florida

M. E. Bolton
Bolton Drive
Corbin Park
New Smyrna Beach, Florida

C. C. Teasley
114 East Thomas Street
Edgewater
New Smyrna Beach, Florida

C. F. Walden
1204 Walden Drive
New Smyrna Beach, Florida

J. R. Brown
124 North Riverside Drive
Edgewater
New Smyrna Beach, Florida

V. B. Raullerson
Misson City
New Smyrna Beach, Florida

C. M. Goodridge
Oak Hill, Florida

All of the foregoing are members of the Brotherhood of Railroad Trainmen with the exception of the following persons: D. Gross, J. E. Hutton, Samuel Bruce, O. D. Reynolds. The four persons named who are not members of the Brotherhood of Railroad Trainmen are not members of any railway labor organization. These four men are employees of the Florida East Coast Railway, employed in the crafts of trainmen and yardmen.

2. The two picket captains were: C. J. Winter and J. Owens whose addresses are listed above. Both are members of the Brotherhood of Railroad Trainmen.

3. The persons who placed the pickets are: Thomas W. McAliley, 1010 Concord Building, Miami, Florida, attorney; O. I. Watts, address above, Brotherhood of Railroad Trainmen; R. C. Moore, defendant, Brotherhood of Railroad Trainmen.

4. Thomas W. McAliley, address above; R. C. Moore, Brotherhood of Railroad Trainmen.

5. No meeting was held on April 24, 1966. Two meetings were held on April 22, 1966 at the George Washington Hotel, Jacksonville, Florida. The first commenced at 10:00 A.M. The persons present were:

W. C. Weldon
3344 Turton Avenue
Jacksonville, Florida
General Chairman,
Brotherhood of Railroad
Trainmen

H. O. Van Arsdall, Sr.
45 East Okeechobee Road
Hialeah, Florida
General Chairman
Brotherhood of Railroad
Trainmen

H. J. Bailey
7945 Blanding Boulevard
Jacksonville, Florida
Railroad Yardmasters of
America

R. A. Waters
2130 Buckman Street
Jacksonville, Florida
Railroad Yardmasters of
America

S. S. Kirby, Sr.
6607 Larne Avenue
Jacksonville, Florida
Railroad Yardmasters of America

C. J. Winter
Route 6, Box 249
Jacksonville, Florida
Brotherhood of Railroad Trainmen

O. I. Watts
5470 Wynnwood Drive
Jacksonville, Florida
Brotherhood of Railroad Trainmen

J. E. Pittman
6523 Oriole Avenue
Jacksonville, Florida
Brotherhood of Railroad Trainmen

L. F. Scheich
230 Riverhills Drive
Jacksonville, Florida
Brotherhood of Railroad Trainmen

P. R. Bennett
P. O. Box 673
Lakeland, Florida
Order of Railroad Conductors & Brakemen

J. M. Baskins
1123 Maynard Street
Jacksonville, Florida
Brotherhood of Railroad Trainmen

R. C. Moore
Defendant
Brotherhood of Railroad Trainmen

E. M. Delch
Box 695
Waycross, Georgia
Brotherhood of Railroad Trainmen

C. . Taylor
807 McIntosh Road
Albany, Georgia
Brotherhood of Railroad Trainmen

T. C. Dolin
P. O. Box 6297
Jacksonville, Florida
Order of Railroad Conductors & Brakemen

R. C. Jordon
P. O. Box 1384
Florence, S. C.
Brotherhood of Railroad Trainmen

J. W. Drane
2318 LaRoche Avenue
Savannah, Georgia
Brotherhood of Railroad Trainmen

E. R. Jackson
8827 Camphor Drive
Jacksonville, Florida
Brotherhood of Railroad Trainmen

W. C. McLendon
315 South Elm Road
Lakeland, Florida
Brotherhood of Railroad Trainmen

G. B. Parker
10726 Meridu Drive
Jacksonville, Florida
Brotherhood of Railroad Trainmen

N. G. Jenkins
3915 Trout River Boulevard
Jacksonville, Florida
Brotherhood of Railroad Trainmen

A. E. McMillan
P. O. Box 23
Sanford, Florida
Brotherhood of Railroad Trainmen

J. S. Fetters
3320 Herschel Street
Jacksonville, Florida
Brotherhood of Railroad Trainmen

R. C. Babcock
3759 Cascade Court
Jacksonville, Florida
International Brotherhood of Electrical Workers

J. H. Hadley
46 West Duval Street
Jacksonville, Florida
Brotherhood of Maintenance of Way Employees

J. N. Adkins
5232 Commonwealth Boulevard
Jacksonville, Florida
Brotherhood of Railroad Trainmen

O. C. Jones
46 West Duval Street
Jacksonville, Florida
Transportation and Communications Employees Union

J. C. Goodson
118 Park Boulevard
New Smyrna Beach, Florida
Brotherhood of Maintenance of Way Employees

C. E. Carter
1220 Oriole Avenue
Miami Springs, Florida
Brotherhood of Railway
Clerks

R. M. Cook
P. O. Box 34
New Smyrna Beach, Florida
Brotherhood of Railway
Carmen of America

R. J. Smith
23 Riviera Street
St. Augustine, Florida
Brotherhood of Railway
Carmen of America

J. W. Hayes
P. O. Box 4226
Jacksonville, Florida
Brotherhood of Railroad
Trainmen

W. K. Russell
3306 Knight Street
Jacksonville, Florida
Brotherhood of Railroad
Trainmen

W. . Smart
339 Claudia Drive
Jacksonville, Florida
Brotherhood of Railroad
Trainmen

C. A. Palmer
P. O. Box 705
Wildwood, Florida
Brotherhood of Railroad
Trainmen

W. B. Mathis
P. O. Box 536
Wildwood, Florida
Brotherhood of Railroad
Trainmen

L. Banks
29 Gerald Drive
Savannah, Georgia
Brotherhood of Railroad
Trainmen

E. M. Morgan
1226 East 53 Street
Savannah, Georgia
Brotherhood of Railroad
Trainmen

D. Iomone
2324 66 Terrace South
St. Petersburg, Florida
Brotherhood of Railroad
Trainmen

Isiah Scott
507 North Street
Jacksonville, Florida
Brotherhood of Railway
Clerks

Clarence A. Sears
741 Gardenia Lane
Jacksonville, Florida
Transportation and Communication Employees Union

Ben E. LeFeat
Route 1, Box 589
Port Orange, Florida
Brotherhood of Railroad Trainmen

Allan Milledge
601 Flagler Federal Building
Miami, Florida

Thomas W. McAliley
1010 Concord Building
Miami, Florida

The second meeting on April 22, 1966, was held commencing at 7:00 p.m. The following persons were present:

C. L. Marseilles
529 Glynlea Road
Jacksonville, Florida
Brotherhood of Railway Carmen of America

B. E. LeFeat
Route 1, Post Office Box 589
Port Orange, Florida
Brotherhood of Railroad Trainmen

O. C. Jones
47 West Duval Street
Jacksonville, Florida
Transportation and Communication Employees Union

R. L. Lanier
Jacksonville, Florida
Sheet Metal Workers Union

J. W. Matthews
P. O. Box 385
Florence, South Carolina
Transportation and Communication Employees Union

V. L. Toland
7839 Mulhall Drive
Jacksonville, Florida
Sheet Metal Workers Union

A. W. Dutton
429 Sunset Drive
Jacksonville, Florida
Railway Signalmen's Union

R. L. Johnson
1101 Mantees Avenue
Jacksonville, Florida
Railway Signalmen's Union

C. J. Winter, address above
Jacksonville, Florida
Brotherhood of Railroad Trainmen

J. E. Pittman
6523 Oriole Avenue
Jacksonville, Florida
Brotherhood of Railroad Trainmen

O. I. Watts
5470 Winnwood Drive
Jacksonville, Florida
Brotherhood of Railroad Trainmen

C. A. Palmer
Box 705
Wildwood, Florida
Brotherhood of Railroad Trainmen

E. R. Beach
2917 West 7th Street
Jacksonville, Florida
Brotherhood of Maintenance of Way Employees

L. F. Scheich
230 River Hills Drive
Jacksonville, Florida
Brotherhood of Railroad Trainmen

E. A. Glen
Miami, Florida
Order of Railway Conductors and Brakemen

F. M. Morgan
1226 East 53 Street
Savannah, Georgia
Brotherhood of Railroad Trainmen

L. Banks
29 Gerald Drive
Savannah, Georgia
Brotherhood of Railroad Trainmen

Thomas W. McAliley
1010 Concord Building
Miami, Florida

Allan Milledge
601 Flagler Federal Building
Miami, Florida

R. C. Moore
Defendant
Brotherhood of Railroad Trainmen

J. W. Hayes, address above
Jacksonville, Florida
Brotherhood of Railroad Trainmen

Frank E. Johnson
Tampa, Florida
Brotherhood of Railroad Trainmen

6. No log was kept of the names and addresses of those persons present at the meeting held May 3, 1966, at the George Washington Hotel. Most of the persons present at the meetings on April 22, 1966, were also present at the meeting on May 3rd and in addition there were other local and general chairmen of railway labor organizations representing employees of the Jacksonville Terminal Company, the Seaboard Railroad, the Atlantic Coast Line Railroad, and the Southern Railroad.

7. On the evening of May 4, 1966, a meeting was held at the George Washington Hotel. Many of the persons listed in answer to question 1 above were present and some of the persons listed in question 5 above were present. At this meeting counsel for the defendants, Neal Rutledge, Allan Milledge, Thomas McAliley and Alan Schwartz, informed the persons present of the injunction entered that day by Federal District Judge McRae.

8. Hoff Printers
523 Main Street
Jacksonville, Florida

These signs were paid for by the local lodges of the Brotherhood of Railroad Trainmen representing employees on the FEC system.

9. The pickets and the picket captains listed in answers 1 and 2 above.

10. O. R. C. & B. and B. L. F. & E.

11. February 10, 1966, at St. Augustine, Florida, Holiday Inn. Persons present were: Federal Mediators Frank

K. Switzer and Robert J. Finnegan, R. W. Wyckoff, Vice President and Director of Personnel, FEC, R. C. Moore, Deputy President, B. R. T., H. O. Van Arsdall, Sr., General Chairman, Brotherhood of Railroad Trainmen, E. A. Glenn, Vice-Chairman, O. R. C. & B., B. E. Lefeat, Local Chairman, Brotherhood of Railroad Trainmen.

12. This was the last mediation session between the FEC and the BRT, ORC&B and BLF&E on the Section 6 notice issued by the FEC on September 25, 1963. The subject of this meeting was FEC's desire to lower wages, increase hours and take away various fringe benefits and otherwise to change the working conditions of its employees in the crafts of trainmen, yardmen, conductors and hostlers.

13., 14., 15. and 16. Other than the meetings listed in Answers 5, 6 and 7 of the above, there have been no other meetings. Since May 4, 1966, the local and general chairman representing Employees of the Jacksonville Terminal Company, Seaboard Railroad, Atlantic Coast Line Railroad and Southern Railroad have been kept advised of the status of the legal proceedings in the Federal and State Courts.

Final Decree

[Filed July 29, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

THIS CAUSE came on this day to be heard after due notice upon the plaintiff's application for a permanent injunction against the defendants, Brotherhood of Railroad Trainmen, an unincorporated association in its own right and as representative of its membership, and Ray Moore and Lowell Kennedy, individually and as officials of said brotherhood, and the members of said organization; Order of Railway Conductors and Brakemen, an unincorporated association in its own right and as representative of its membership, and T. C. Bolin, individually and as an official of said brotherhood, and the members of said organization; Brotherhood of Locomotive Firemen and Enginemen, an unincorporated association in its own right and as representative of its membership; and the members of said organization, having been previously heard on May 28th and 29th, 1966, on plaintiff's application for temporary injunction which, after consideration by the Court, was entered May 30th, 1966, against each of the above named defendants.

The Court has reviewed the testimony at the proceeding for temporary injunction, the briefs of the respective parties filed herein, and has considered the Stipulation filed herein by the parties July 29, 1966, as well as additional

documentary evidence filed on behalf of both plaintiff and defendants.

The Court, having considered the argument of counsel and being advised in the premises, makes the following findings of fact and conclusion of law:

1. Plaintiff, Jacksonville Terminal Company ("Terminal Company"), is a private corporation organized and existing under the laws of the State of Florida, with its principal place of business in Jacksonville, Duval County, Florida. Plaintiff is engaged in the railroad terminal business at Jacksonville, Florida, where it owns and operates a passenger station, yards, tracks, buildings and equipment; and provides passenger, freight and switching services for the Atlantic Coast Line Railroad Company, Seaboard Air Line Railroad Company, the Georgia Southern and Florida Railway Company, the Southern Railway Company, the Florida East Coast Railway Company and many industries and businesses of Duval County, Florida. The plaintiff and the other named rail carriers are all "employers" subject to the Railway Labor Act. Plaintiff also employs its own officers and employees who are responsible for the day-to-day operation of Terminal Company and has a separate labor agreement with the defendant Brotherhood of Railroad Trainmen covering Terminal Company employees only. There is no dispute under this agreement between Terminal Company and Brotherhood of Railroad Trainmen for which that defendant seeks to picket the premises of Terminal Company and said agreement remains in full force and effect. The other named labor organizations do not represent any employees on the property of Terminal Company and have no dispute with plaintiff.

2. The defendants Brotherhood of Railroad Trainmen, Order of Railway Conductors and Brakemen, and Brotherhood of Locomotive Firemen and Enginemen are all unincorporated labor organizations whose memberships are composed predominantly and overwhelmingly of employees of employers subject to the Railway Labor Act and are engaged primarily in representing such employees concerning labor disputes, rates of pay and working conditions in the railway industry.

3. The defendant Ray Moore is Deputy Vice President of the defendant Brotherhood of Railroad Trainmen, and by his own admission is in charge of promoting the acts and things hereinafter enjoined. The defendants Lowell Kennedy and T. C. Bolin, individually and as officials of the defendant brotherhoods, together with the membership of said brotherhoods, have participated in active concert with the defendant Ray Moore.

4. This action arises under the Constitution and laws of the State of Florida and this Court has jurisdiction of the subject matter and of the parties hereto.

5. On May 4, 1966, at or about 4:00 a.m., the defendant Brotherhood of Railroad Trainmen established picket lines at numerous locations surrounding the premises of plaintiff so that said premises were effectively cut off from all rail movement. Said pickets patrolled at all entrances and exits by rail, foot or vehicle and resulted in a substantial cessation of the activities and business of Terminal Company and caused the employees of said Terminal Company to fail to report to work. All defendants have announced their intention to cause such picketing and patrolling of the premises

of plaintiff to be renewed unless this injunction issue, or unless the defendants are otherwise enjoined.

6. All of the persons picketing the premises of Terminal Company on May 4, 1966, were members of local lodges composed solely of employees of employers subject to the Railway Labor Act. All pickets were employees of the Florida East Coast Railway Company, an employer subject to the Railway Labor Act.

7. Counsel for defendants announced at the beginning of taking of evidence in this case and the Court finds that if the picketing was resumed as threatened, it would result in a virtual cessation of activities not only of the Terminal Company but also of numerous industries in Duval County and throughout the remainder of the State of Florida. The picketing, if resumed, would adversely affect all of the people who are served by and do business with plaintiff and all railways served by the plaintiff. It would, further, adversely affect an entire economic area, from Duval County to Key West, Florida, and would cause economic strangulation of the entire state. The announced purpose of the picketing is to cause the plaintiff and its employees to cease furnishing services to the Florida East Coast Railway Company (FEC), against whom the defendant brotherhoods are now on strike, and thus to bring the operations of the FEC to a halt; the effect of the picketing is considerably more broad, as above stated.

8. The decision of this Court is not made upon the basis of violence. There is no evidence in the record of any violence or threat of violence involved in the picketing.

9. The Court concludes that the past and threatened picketing as described above is in violation of the law of

the State of Florida and that this Court has the jurisdiction to enjoin the threatened picketing on that basis. The past and threatened picketing seeks to coerce plaintiff into embargoing the FEC in violation of the Restraint of Trade Laws of this State, Chapter 542, Florida Statutes. Further, the picketing seeks to force the plaintiff to violate its duties and obligations as a carrier under the Florida Transportation Act, F.S. §§351.12, 351.14, 351.15, 351.16, 351.17 and 351.19, and did and will constitute economic pressure in the nature of a secondary boycott which is illegal under Florida law. Finally, the past and threatened picketing did and will unjustifiably interfere with and interrupt plaintiff's constitutional right to carry on its business, and said picketing constitutes the independent tort of unjustifiable interference with the contractual relationships between plaintiff and its shippers and between plaintiff and its employees. Plaintiff has been and will be subjected to irreparable injury for which no adequate remedy at law exists. It is, therefore,

ORDERED AND DECREED that the defendants, Brotherhood of Railroad Trainmen, Ray Moore, Lowell Kennedy, Order of Railway Conductors and Brakemen, T. C. Bolin, and Brotherhood of Locomotive Firemen and Enginemen, individually, and their officers, agents, servants, employees, representatives, members, attorneys and all other persons acting at the direction of or in active concert or participation with either the Brotherhood of Railroad Trainmen, the Order of Railway Conductors and Brakemen, or the Brotherhood of Locomotive Firemen and Enginemen, and all persons receiving notice of any such orders of the Court, are permanently enjoined and restrained from:

(a) Picketing the properties owned or operated by plaintiff in Jacksonville, Duval County, Florida, except at the

reserved entrance located at Bay and Stuart Streets, Jacksonville, Florida, designated for use by FEC employees;

(b) Causing, directing, authorizing, recommending, sanctioning, or participating in the patrolling, picketing, or blockading of the entrances or exits used by the employees of plaintiff in connection with their work or in connection with plaintiff's land, buildings, facilities or other property operated, owned or controlled by plaintiff; PROVIDED, HOWEVER, that this order shall not apply to the reserved entrance located at Bay and Stuart Streets, Jacksonville, Florida, designated for use by FEC employees;

(c) Causing or inducing the employees of plaintiff who report for work at the Terminal Company to cease performing the duties of their employment;

(d) Interfering in any way with the operation of plaintiff's properties by plaintiff.

(e) This injunction is limited to the picketing of plaintiff's premises by the defendants arising out of defendants' existing disputes with the Florida East Coast Railway Company.

It is FURTHER ORDERED AND DECREED that the plaintiff, Terminal Company, a corporation, and its surety, Federal Insurance Company, a corporation, be and they hereby are released and discharged from any and all further liability under the bond heretofore filed herein in the amount of $25,000.00 and said bond be and it hereby is cancelled and rendered null and void.

DONE and ORDERED in Chambers at Jacksonville, Duval County, Florida, this 29th day of July, A. D. 1966.

ROGER J. WAYBRIGHT
Circuit Judge

Notice of Appeal

[Filed September 26, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

The defendants Brotherhood of Railroad Trainmen, a labor organization, Order of Railway Conductors and Brakemen, a labor organization, Brotherhood of Locomotive Firemen and Enginemen, a labor organization, Ray Moore, an individual, Lowell Kennedy, an individual and T. C. Bolin, an individual, take and enter their appeal to the District Court of Appeal of Florida, First District, to review the order, judgment, or decree of the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, entered in the above-styled cause, being entitled "Final Decree", bearing the date 29th day of July, 1966 and recorded in Official Records, Volume 2618, pages 189-194 on the 29th day of July 1966. The nature of the said order appealed from is a final decree against appellants permanently enjoining them from certain designated conduct.

All parties to said cause are called upon to take notice of the entry of this appeal.

Assignments of Error

[Filed October 5, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

The defendants Brotherhood of Railroad Trainmen, a labor organization, Order of Railway Conductors and Brakemen, a labor organization, Brotherhood of Locomotive Firemen and Enginemen, a labor organization, Ray Moore, an individual, Lowell Kennedy, an individual and T. C. Bolin, an individual, hereby assign and designate as error to be relied upon by them on appeal, the following judicial acts:

(1) The Court erred in refusing to admit into evidence at the hearing, held on May 28 and 29, 1966, on Plaintiff's Motion For Temporary Injunction, Defendants' Exhibit "A".

(2) The Court erred in making and entering an order entitled "Order For Temporary Injunction" dated May 30, 1966.

(3) The Court erred in making and entering the order entitled "Final Decree" dated July 29, 1966.

Extracts From Transcript of Record

[Filed June 23, 1966]

IN THE

CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FLORIDA

TESTIMONY AND PROCEEDINGS

SATURDAY AFTERNOON

MAY 28 1966

[6] The Court: Give me the names of the attorneys who represent the plaintiff.

. . . Names are given to the Court.

The Court: What are the attorneys for the plaintiff.

Mr. Towers: The firm of Rogers, Towers, Bailey, Jones & Gay.

Mr. Coffman: Daniel R. Coffman.

The Court: R?

Mr. Coffman: Yes, sir, C-o-f-f-m-a-n.

The Court: All right, what are the attorneys for the plaintiff, if any?

Mr. Smith: The firm of Rogers, Towers, Bailey, Jones & Gay.

The Court: There has to be a name to practice law. What individual attorney?

Mr. Smith: Mr. Charlie Towers.

Mr. Towers: Some of these other lawyers will be heard on the law, if you want to put their names down. Bob Smith and David Foster.

The Court: All right, give me the name of every attorney representing the plaintiff.

Mr. Towers: All right, Robert S. Smith.

The Court: (Writing)

Mr. Towers: David F. Foster—David M. Foster. Frank X. Friedmann.

[7] The Reporter: Frank who?

Mr. Towers: Frank X. Friedmann, F-r-i-e-d-m-a-n-n. Two m's on the end, Judge.

The Court: All right. W. E. Grissett, Jr., isn't it?

Mr. Grissett: Yes, sir. So is Mr. Towers.

Mr. Towers: I believe that's all, Your Honor.

The Court: Now, for the defendant, who is listed first, or does it matter—Allen Milledge or Thomas W. McAlliley. In addition, Mr. Nael Rutledge may be here.

The Court: N-a-e-l?

Counsel: Yes, sir.

The Court: Any initial?

Counsel: No, sir.

The Court: The same address as Mr. Milledge, of course. All right, so much for counsel.

The Court: (Addressing the reporter) Have you got all this down, Mr. Jones?

The Reporter: I have got it all down but I couldn't hear this gentleman here. (Indicating).

The Court: Get them all on the record, if you will, and give me back the paper.

[8] (The reporter added the following: Thomas W. McAlliley, Nael Rutledge, for the defendant.)

Mr. Adams: Your Honor, one thing that perhaps ought to have been taken care of yesterday is that we amended our complaint.

The Court: That's just what I am getting at next.

Mr. Adams: It is sort of a *race* situation. If it was amended prior to the time they filed an answer, I don't think we need leave of court. If it was amended afterwards, we would, and we have a motion prepared.

The Court: Let's get to that right now. I can tell easily enough from the original complaint who the defendants were, because they were set forth in the caption.

The original complaint was filed on May 23rd.

Now, the amended complaint has an abbreviated caption with two different individuals' names shown, and by looking through the body of it, I have extreme difficulty in finding out from the amended complaint, itself, who all the defendants are. Was it your intention—

Mr. Adams: To add to the defendants.

The Court: Was it your intention to have as [9] defendants in this case, all the defendants named in the caption of the original complaint, except Ray Moore and Kennedy, and to substitute for those two individuals in your amended complaint A. L. *Graves* and C. H. Wright, or was there some other intention?

Mr. Adams: There was some other intention.

The Court: Tell me, please, what your other intention was.

Mr. Adams: The other intention was to join all of the previous defendants and add two additional defendants, A. L. *Graves*, this ought to be Groves, Your Honor. I'm sorry.

The Court: All right, all of those named in the caption of the original complaint, plus A. L. Groves and C. H. Wright?

Mr. Adams: Yes, sir.

The Court: Now, Mr. McAlliley, which of the defendants so indicated you and Mr. Milledge and Mr. Rutledge represent?

Mr. Milledge: We represent the labor organizations and those individuals, Moore and Kennedy—looking at the original complaint, and Boland and Eastin.

The Court: But you do not represent A. L. Groves or C. H. Wright?

[10] Mr. Milledge: They don't have anything to do with the three labor organizations.

The Court: Now, has there been any service on A. L. Groves, C. E. Wright?

Mr. Towers: Your Honor, because the amended complaint was not filed until yesterday.

The Court: It is a very small point, but, as I read the Rules of Civil Procedure, that Mr. Grissett and his colleagues have been kind enough to work up, I think there is considerable reason to suspect that while an amended complaint may be filed, without leave of Court, and while defendants may be dismissed from a case without leave of Court, leave of Court must be obtained before defendants are added, inasmuch as you don't have any kind of service on A. L. Groves or C. H. Wright, it probably doesn't make much difference, but I do call to your attention that there's no decision that I know of interpreting that portion of the Rules of Civil Procedure made by any Appellate Court, but, as I construe them, you would be required to get an order of Court in order to join those two people as defendants, and I suggest to you as a precaution, that it would be well for you to apply for such an order if you intend to have them in here, despite [11] Mr. McAlliley's statement that they have nothing to do with any of his labor organizations.

Mr. McAlliley: May we make that motion, or tender this motion to that effect, at this time, Your Honor?

The Court: Yes.

Mr. McAlliley: Well, at this time, the plaintiff would respectfully request leave to file amended complaint by changing certain allegations, which do appear in the amended complaint, which is already on file, and by adding the two additional defendants—A. L. Groves and C. H. Wright.

Mr. McAlliley: May I be heard on that?

The Court: Yes.

Do I understand that you intend to file an amended complaint that is not currently in the court file, or do you refer to the amended complaint that is filed May 27th?

Mr. Adams: We refer to the amended complaint which is marked May 27th.

The Court: All right, what is your position on behalf of the defendants on that, Mr. McAlliley?

Mr. McAlliley: Excuse me, Your Honor. This is Mr. Milledge. I don't want to confuse the Court reporter.

The Court: I am sorry.

[12] Mr. McAlliley: It is only for the record.

Mr. Milledge: As I read the amended complaint, I don't see the names mentioned in it, other than in the caption, and, unless there's some allegations—it seems to me that this—that it is just—that it is just—that it unnecessarily burdens this matter to have other people in in.

I don't think there would be any representations here, Your Honor, that they are members of any of the defendant labor organizations.

The Court: Who do you conceive that A. L. Groves, and C. H. Wright are, Mr. Adams?

Mr. Adams: We contend, Your Honor, that they are members of another union, a non-operating union and we

hope and expect to be able to prove that these people acted together in aiding and abetting in the acts which we say the defendants are guilty of.

The Court: And you say a "non-operating union"?

Mr. Adams: It is the Brotherhood of the Railway Clerks, I believe, is the particular union involved. And, we say that these men were actually acting together with, and in concert with the other named defendants.

The Court: But, you do not seek to join as a defendant, the Brotherhood of Railway Clerks, itself?

[13] Mr. Adams: No.

The Court: Well, your motion to add those two, as defendants, is granted, and if you conceive that you need leave to file an amended complaint, that is granted, as well.

I am inclined to think you can do that without a Court order, and an order will be entered giving that leave.

The amended complaint was served on counsel for the defendants, I take it, on May 27th?

Mr. Milledge: It was served yesterday, yes, sir, but I have kind of lost track of the time.

Mr. Adams: I believe it was yesterday.

The Court: Yes, yesterday. It was yesterday.

Another small matter. The amended complaint, on page three thereof, in the last full line on that page, I shall, with your permission, change the word "imminent" to eminate, it is an interlineation.

Mr. Adams: All right.

The Court: And initial it on the margin.

And, on page five, in paragraph 13 is a recital, all of which appears from the affidavits of certain named persons attached hereto and by this reference made upon this complaint. I take it that you mean the affidavits of those persons attached to the [14] original complaints.

Mr. Adams: Yes, sir.

The Court: So I shall mark out the word "hereto" and insert in place thereof the words "to the original complaint." And initial it on the margin. (Writing).

Now, gentlemen, it is my understanding and I pose it partly in the form of a question to you, that what we are here for today is an application made pursuant to notice to the defendants other than A. L. Groves and C. H. Wright for the issuance of a temporary injunction.

Is that correct?

Mr. Adams: Yes, sir, that is correct.

The Court: And do I understand that you do have notice that that would be presented at this time today, Mr.—

Mr. Milledge: Yes, sir.

The Court: All right. Whatever has gone by way of a temporary injunction would have no bearing on A. L. Groves and C. H. Wright, since they have not been notified of the hearing.

Mr. Adams: I understand that. Just as a matter of procedure could this be treated as an application for temporary restraining order with respect to those defendants, if the evidence warrants it?

[15] The Court: Yes, although, frankly, it would have to be rather strong evidence because I have a duty and a prejudice against doing things without notice.

Mr. Adams: Yes, sir.

The Court: But, I realize that, under certain circumstances, that a temporary restraining order may be so necessary, and that they may be entered without notice, but the circumstances have to be so extremely strong, in my view, that it is very difficult to establish in my thinking.

Any system of justice that is devised has to include in it, as a point of the basic fairness, an opportunity of the person proceeded against to be heard before action is taken. But, it is possible.

Mr. Adams: Thank you.

The Court: Are we ready to proceed, gentlemen?

Counsel: Yes, sir (in unison).

The Court: Or are there other minutia for us to take up.

Counsel: A very small minutia. May we smoke during the hearing?

(Discussion off record.)

Mr. Adams: Your Honor, if we could take this witness out of order, Mr. Grissett has a number of witnesses here who I don't think will take very long, and they [16] are generally businessmen, who operate businesses here in the area, which we expect to show has a substantial effect on the community, as a result of the acts.

The Court: All right.

Mr. Adams: If this would be all right, we would like to put these witnesses on first, so they can go.

The Court: The defendant indicates he has no objection.

Mr. Milledge: There is no objection. But, we might say, Your Honor, at this point that we don't think that it is relevant to the proceedings what collateral effects this might have on other persons.

We certainly acknowledge that if the picketing is successful,—that is, that if it does what it intends to do, it would stop all movement of rail traffic through the Jacksonville Terminal, until the Jacksonville Terminal, as long as it was F.E.C. movement in the Jacksonville Terminal. If there was no F.E.C. movement in the Jacksonville Terminal, of course, there would be no need for picketing. But, we certainly acknowledge that that would be the result, if

it were successful. If it would be successful, might be arguable, but, that is the [17] purpose of the picketing.

The Court: Would you be willing to go so far as to concede not only would the operations through the Terminal be in effect terminated, but that that would have a profound economic impact upon businesses in the area, which I take it is the purpose of what he intends to show by these witnesses?

Mr. Milledge: Yes, I'm sure it would.

The Court: In view of that, do you still wish to call them? My attitude is simply that I don't want to restrict any calling of witnesses that you want to put on. We will stay here as long as we need to and hear whatever witnesses either side wants to put on. So, if you still want to call them, in view of the announcement by counsel for the defendants please feel free to do so. Perhaps that takes away the need for some of them.

Mr. Towers: Your Honor, I think they still need to be called for this reason:

The Court: You don't need to explain it. You have a perfect right to call them, and I will hear every witness that anybody calls. I will be here all night, and all day tomorrow. It is all right.

Mr. Towers: Well, I don't want Your Honor to think that we are being petty about it. Even though we [18] stipulate, it will have a profound impact, but the degree of the impact is only remedied by one's imagination. The only way we can get that before the Court is with witnesses, we feel.

The Court: You gentlemen on the side feel perfectly free to smoke, too.

(Discussion off record.)

The Court: I may as well change the spelling of A. L. Groves, to A. L. Graves,—A. L. Graves to A. L. Groves,

in the application of the amended complaint by an interlineation. (Writing.)

[19] The Court: (Addressing witness). When you are comfortable, please hold up your right hand.

MR. DAVE RAWLS, having been first duly sworn, testified as follows:

Direct Examination by Mr. Grissett:

Q. Would you state your name, please? A. My name is Dave Rawls.

Q. What is your occupation, Mr. Rawls? A. Managing direction of the Jacksonville Port Authority.

Q. Mr. Rawls, in its operations as the Jacksonville Port Authority, do you use rail traffic or railroad usage? A. Yes, sir.

Q. Do you use other railroad companies' tracks or, how is that operation? A. No, sir, we have our own railroad system and we interchange with other railroads.

Q. Where is that rail system generally located, Mr. Rawls? A. It is located in the confines of the Talleyrand docks and terminals, located at 2701 Talleyrand Avenue.

Q. And who do you interchange with? What railroads do you interchange traffic with? A. We interchange with all of the railroads in the [20] Jacksonville area—the Florida East Coast, the Atlantic Coast Line, Southern, Seaboard.

Q. Any of those railroad tracks connect with the Jacksonville Port Authority's tracks in the Talleyrand dock area? A. We interchange with them at the interchange point.

Their tracks do not come on our property.

Q. Yes, sir. A. But, our—but then our switch engine interchanges at the interchange point.

Q. All right, sir. In other words, their tracks take up where your tracks leave? A. Yes, sir.

Q. Do all four of those railroad tracks come up to your trackage? A. No, sir, I am not too familiar with it. I am sure that ACL and Seaboard do. I don't think Southern does, but I am not sure on that point.

Q. How about FEC? A. I don't think FEC does.

Q. All right, sir.

Which railroads do you interchange with with most of your traffic? A. Most of ours is ACL and Seaboard traffic.

Q. Mr. Rawls, the shut-down of rail operations east [21] of the Jacksonville Terminal Company on behalf of the Coast Line and the Seaboard, would have what effect on the Jacksonville Port Authority? A. It would have a major effect on our operation.

Q. What would it do to your operations? A. Well, it would drastically reduce the flow of traffic through our facilities.

Q. Can you tell us, Mr. Rawls, how much tonnage the Jacksonville Port Authority has handled in the past year? A. I am going to have to apologize. As you know, I got into this after work hours yesterday.

As a round figure, we handle approximately one million tons of cargo per year.

Q. All right, sir. A. That is dry cargo, package cargo, as opposed to bulk.

Q. Yes, sir. How much of that goes in or out of the Talleyrand dock area by rail? A. A major portion. I would have to consult my records to get the exact figures.

Q. If you do not have rail facilities available to interchange, would you have to shut down any operations? A. Our operation would be curtailed. I am not in a position to make a judgment as to whether or not it would shut down,—not at this point.

[22] Q. Would it entail the lay-off of any personnel who worked for the Jacksonville Port Authority? A. Well, it could. It has happened before. It would depend upon the length of time and the severity.

Mr. Grissett: Your Honor, if Mr. Milledge does not have any objection we have that same map made up, which might be of assistance to the Judge, if you all would set it up.

Counsel: I think it would.

Mr. Grissett: If you all would set it up, just before we get through with Mr. Rawls.

It illustrates better what we are talking about.

The Court: (Shaking head in the affirmative)

Mr. Grissett: Your Honor, we offer it as an exhibit. Mr. Milledge has said that it is not necessary to authenticate it. Just so it will be on the record.

Mr. Milledge: We have no objection to its authenticity.

The Court: (Stepping down to map) All right, we will mark it as Plaintiff's Exhibit No. 1 in evidence (marking).

Mr. Grissett: Your Honor, for the purpose of the record, and at Mr. Milledge's suggestion, I will describe what is on the map.

[23] The Court: Surely.

Mr. Grissett: The green area there represents the properties of the Jacksonville Terminal Company. The blue lines represent the railroad trackage of the Atlantic Coast Line Railroad Company. The orange lines represent the trackage of the Seaboard Air Line Railroad Company.

The brown line at the bottom is the trackage of the Florida East Coast Railroad Company.

The purple lines represent the trackage of the Southern Railway System.

And the yellow lines on the right side, represent the tracks of the Municipal Dock and Terminal Railroad.

The Court: The green was what?

Mr. Grissett: The Jacksonville Terminal Company properties.

By the Court (Addressing witness):

Q. Now, here is your main operation (indicating). Right, Mr. Rawls? A. Yes, sir.

Q. And all the yellow is your trackage? A. Yes, sir.

The Court: I understand it.

[24] Mr. Milledge: Your Honor, may I ask just this one question about it?

The Court: Yes, sir.

By Mr. Milledge:

Q. Do these blue lines—ACL tracks which almost converge at the top, do they intersect? A. I will have to beg ignorance. They do intersect.

Mr. Jennette: They do intersect.

Mr. Grissett: I have no further questions of this witness.

The Court: Mr. Jennette is president of the Terminal Company, the plaintiff.

Mr. McAlliley: May I go ahead, Your Honor?

The Court: Yes.

Cross Examination by Mr. McAlliley:

Q. Mr. Rawls, as director of the Jacksonville Authority your main consideration is the ability to handle your work, is it not? A. Yes, sir.

Q. Does it make any difference to you what railroad company furnishes rail transportation to you? A. No, sir.

Q. And, can you testify here today whether rail [25] transportation would be available to you, even if the Jacksonville Terminal facilities were shut down? A. No, sir.

Q. You don't know one way or another whether you can have rail transportation supplied to you that would circumvent or rather circle the premises of the Jacksonville Terminal Company? A. No, sir.

Q. And again, the Seaboard and the Coast Line are the two carriers that serve your facility? A. Yes, sir.

Mr. McAlliley: That's all we have.

Mr. Grissett: I have no further questions.

May Mr. Rawls be excused?

The Court: Is that agreeable?

Counsel: (Shaking head in the affirmative.)

Mr. Grissett: Thank you, Mr. Rawls.

(Witness excused.)

Mr. Grissett: Mr. Hicklin, H-i-c-k-l-i-n.

---

[26] WILLIAM J. HICKLIN, JR., having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Grissett:

Q. Would you state your name, please, sir? A. William J. Hicklin, Jr.

Q. What is your occupation, Mr. Hicklin? A. I am serving as president of the Capitol Concrete Company, ready-mix concrete producers, in the City.

Q. Does that company do anything, other than just ready-mix concrete, Mr. Hicklin? A. Also there is a sister company that manufactures pre-stress concrete products, a precast concrete unit.

Q. Mr. Hicklin, where do you have operations located in Duval County? A. We have five ready-mix concrete plants, one in the city limits, in East Jacksonville, and one opposite the Airport, at Yukon, just across the road from the Naval Air Station; the South Jacksonville, at University Boulevard, and at Edgewood and Beaver.

Ready-mix plants, we have two precast concrete plants. One across from the Airport on Main Street, and one on Heckscher Drive.

Q. Mr. Hicklin, in your operations, do you use railroad [27] transportation facilities? A. Yes, sir, altogether.

Q. Do you exclusively use rail transportation? A. For the bulk of our material, yes, sir.

Q. Mr. Hicklin, do you have any idea how many freight cars you receive a month containing these raw materials? A. Yes, sir, throughout all the plants, about 300.

Q. Can you describe for us which railroads serve which plants of yours? A. Three of our plants are served by Seaboard, one by the Coast Line, and one by the Florida East Coast.

Q. And where is the one served by the Florida East Coast? A. Just off U. S. 1 at University Boulevard.

Q. All right, sir, and where is the one served by the Coast Line? A. The Coast Line is at Yukon, a local station, across from the Naval Air Station.

Q. What about the three served by the Seaboard? A. At Edgewood Avenue, Palmetto Street, and Airport siding, Main Street.

Q. Mr. Hicklin, what effect on the operations of Capitol Concrete Company would be a shutdown of rail transportation to your plants? [28] A. Our supply of materials on hand will last about, a day to two days. We live directly for on rail transportation, and we would be brought to a complete halt within about two days after cessation of rail operations.

Q. Mr. Hicklin, are your plants involved in any work now at the present for large construction in this area? A. Yes, sir, we are supplying ready-made concrete and precast concrete products for the Gulf Life Building.

We are supplying ready-mix concrete for the hospital at the Jacksonville Naval Air Station. In fact, two jobs on the Naval Air Station.

Concrete for the Times-Union Publishing Company.

For the Southern Bell Telephone Company, and others.

Q. All right, sir. Which one of your prestress plants is doing the beams for the Gulf Life? A. The one on Heckscher Drive.

Q. And which ones are furnishing material or beams for the Naval Air Station Hospital? A. That's ready-mix concrete and that's from the Yukon concrete plant.

Q. Mr. Hicklin, how many people are employed by Capitol Concrete, approximately? A. About seventy-five.

[29] Q. All right, sir, do you have any idea about what your weekly or monthly payroll is? A. Yes, sir.

Counting the two companies, now, the Prestress Concrete Company employees, about 75. Also, there are about 150 employees, total.

For the weekly payroll in each company, about eight thousand, sixteen thousand times—about $70,000 a month.

Mr. Grissett: I have no further questions.

Just a moment, please, sir.

By Mr. Grissett:

Q. Mr. Hicklin, a few more questions:

Who is your major competitor in the Jacksonville, Duval County, area? A. Southern Materials Company.

Q. Are you familiar with the location of their plants? A. Yes, sir.

Q. Could you tell us where those are? A. They are, most of them, on the Coast Line Railroad; one on Talleyrand Avenue. That's the main plant.

They operate one on the East Coast south of our plant.

They operate on Heckscher Drive, Coast Line.

[30] I believe those comprise their plants.

Mr. Grissett: I have no further questions.

Cross Examination by Mr. McAlliley:

Q. Mr. Hicklin, I have a few questions, sir.

Again, is your major interest the availability of bulk materials? A. Yes, sir, it is.

Q. Does it make any difference to you over which railroad you get them? A. It has to make a difference. Where you are located on certain railroads.

Q. I see. A. We are served by those railroads.

Q. I understand. But, for example, if the Atlantic Coast Line Railroad were unable to furnish you materials at a certain location, then the Seaboard Railroad would be able to furnish you materials in another location? A. Our locations happen to be on either Coast Line or Seaboard or Florida East Coast, and those locations can't be moved. They are permanent. They are permanent locations.

Q. Right. I understand that.

But, the point is you have locations on all three [31] railroads you have talked about? A. Yes, sir.

Q. Do you ship over F. E. C.? A. No, sir, we receive nothing by long line haul.

Q. Do you ship over line haul to F. E. C.? A. Yes, sir.

Q. All right.

Now, sir, on May 4, 1966, was your business affected at all? A. We noticed it, yes, sir.

Q. How much did you notice it? A. Well, relatively slightly. As I mentioned earlier, we do have stockpile materials that last us from one to three days.

Q. How about in the month of April, 1966, did you have any problem then of getting supplies? A. Yes, sir, we certainly did.

I don't recall the exact month, but I do recall some difficulty we had with one of our delivering carriers.

Q. Did you complete all of these materials during that period? A. Yes, sir.

Q. At what particular plants? A. At all plants served by the Seaboard Railroad.

[32] Q. All right, sir.

During this period were you able to get materials over to the Coast Line Railroad? A. Yes, sir, I believe we were, at our plant which is served by the Coast Line.

Q. Do you know further, for example, on the Seaboard Railroad, which I believe you said served three of your plants, whether it is necessary for that railroad to traverse the Jacksonville Terminal Company, in order to serve you? A. I am just not familiar with the routing. I understand that this is the case.

Q. Do you know, sir? A. I don't know, first-hand. I am not that familiar with it.

Q. All right, sir, do you know where interchange of traffic by Seaboard occurs in order to bring materials to your plant?

And, by interchange of traffic, I mean rail traffic? A. For each of our plants, I do not know this.

Q. Where does the bulk of these materials come from? A. Live Oak, Florida.

Q. Live Oak, Florida.

All right, sir, is Live Oak, to your knowledge, served both by the Seaboard and Coast Line? [33] A. It is served by the Coast Line, actually, but there is a reciprocal switching of some type which permits Seaboard to bring materials in from Live Oak.

Q. And, for the record, Live Oak is located west of this City, between Jacksonville and Tallahassee, Florida? A. (Shaking head in affirmative.)

Q. Now, referring to Plaintiff's Exhibit A, could you generally locate for us on this map, so that we will know, and so the record will be clear, as to where your five Capitol Concrete plants are in this city? A. Yes, sir. We have a plant located here (indicating on map).

Mr. McAlliley: I don't know if we want to start marking this map or not.

Mr. Grissett: You can describe where it is, if you would like.

Q. All right, why don't you describe it? A. I am unable to find Palmetto Street.

I presume it is probably this street right here (indicating). Our plant is located here (indicating).

Q. All right, for the record, referring to Plaintiff's Exhibit 1 in evidence, this would be on the right-hand side of the map near the orange and purple lines, and near what streets, sir? [34] A. Union and Palmetto.

Q. And what is the name of this particular plant? A. This, we call our Palmetto Street plant.

Q. All right, sir, will you go to the next one? A. There is a plant located north on Main Street directly opposite the Imeson Airport, not shown on this map.

Q. Not shown on this map, sir? A. No, sir.

Q. Would the closest point reflected on the map be the orange Seaboard Air Line Railroad track that proceeds to the top of the map and towards the north? A. Yes, sir.

Q. All right, sir, and where is your next? A. We have a plant located here (indicating) at Edgewood and Cassatt.

Q. All right, sir, and again those streets are reflected on this map? A. Yes, sir.

Q. And again, those would be the orange lines reflecting the Seaboard Air Line Railroad tracks? A. Yes, sir.

Q. All right, sir. A. A fourth plant is located south of that shown on the map at Yukon, Florida.

[35] Q. Yukon—I believe you previously testified that Yukon is near NAS? A. Yes, sir.

Q. The Jacksonville Naval Air Station? A. Yes, sir.

Q. All right, and again, referring to this map, the lower bottom of the map, the blue, the Atlantic Coast Line railroad marking heading to the south? A. Yes, sir. The last plant is located south on this side of the map (indicating).

Q. And again, for the record, it would be near the brown F. E. C. line located at the bottom of the map in a southerly direction? A. Right.

Q. Now, are you able to bring materials by a method other than rail transportation? A. No, we aren't. Truck delivery can't be made.

Q. The difference is expenses? A. No, the difference is availability of truck equipment.

Q. I see. But, assuming the availability of truck equipment, you are able to receive bulk products by truck? A. We could take truck delivery, provided we could get the trucks.

[36] Q. And that is primarily a matter of competition, would you say? A. (No response.)

Q. In other words, availability of one bulk carrier, as opposed to another? A. I presume this would have to be true, yes, sir.

Mr. McAlliley: That's all we have.

Redirect Examination by Mr. Grissett:

Q. Mr. Hicklin, have you had any reason within recent times to attempt to obtain truck delivery of any of your— A. We have made certain inquiries recently in anticipation of the difficulty which we knew was impending—

Q. Yes, sir. A. —from local companies with whom we had previously done some business who are in the trucking business, who advised us that it would be a hopeless proposition, that it might be well not to depend upon them for any truck rentals.

Q. In other words, trucks would not be available? A. Absolutely not.

Q. Thank you, sir.

I have no further questions.

Mr. McAlliley: I have no questions.

[37] Mr. Grissett: May Mr. Hicklin be excused?

Counsel: (Shaking head in the affirmative.)

(Witness excused.)

The Court: Gentlemen, off the record.

(Discussion off the record.)

MR. F. M. KIMBROUGH, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Grissett:

Q. Would you state your name, please, sir? A. My name is F. M. Kimbrough, (spelling) K-i-m-b-r-o-u-g-h.

Q. What is your occupation, Mr. Kimbrough? A. I am traffic manager for St. Regis Paper Company.

Q. Mr. Kimbrough, the St. Regis Paper Company has a plant in the Jacksonville area? A. Yes, sir, we have a plant on the Eastport Road, just east of the Airport.

Q. Mr. Kimbrough, do you, the St. Regis Paper Company, use rail freight service for its raw materials? A. Yes, sir, approximately 90% of our inbound tonnage comes by rail.

Q. What type of raw material is this? [38] A. The biggest thing we get is wood and wood chips. We do get other chemicals associated with the process of paper, but this is our biggest one.

Q. Which railroad serves the mill out there, sir? A. We are served by the Coast Line and the Seaboard.

Q. And approximately how many freight cars do you usually receive a month, if you know? A. Somewhere in the vicinity of 3000 a month.

Q. Do you ship any traffic out by rail each month? A. Yes, sir, we ship, oh, between 900 and 1000 cars a month outbound by rail.

Q. All right, sir, and what do they contain, basically? A. Our finished product, the paper and the paperboard.

Q. If rail freight service should be stopped to St. Regis' Jacksonville mill, what would it do to the operation? A. With the volume we have, with the limited storage space

we have, if we couldn't move the material in and out, we would have to shut down.

Q. And what would shutting down mean to the employees there, sir? A. Well, we have about 800 employees who would be out of work.

Q. Sir, would your shutdown affect any other people, other than your immediate employees? A. Oh, yes, we have approximately the same number of [39] people in our field who cut and load the wood coming to the plant.

Mr. Grissett: I have no further questions.

Cross Examination by Mr. McAlliley:

Q. I have a few questions, please, sir.

Does the St. Regis Paper Company share common ownership with the Florida East Coast Railroad? A. Not to my knowledge.

Q. All right, can you tell me who owns the St. Regis Paper Company? A. It is common stock owned on the New York Stock Exchange.

Q. All right, sir, do you know if Mr. Edward Ball has any ownership in it? A. I don't know, sir.

Q. All right, sir. Does it make any difference to you what railroads serve your facility, as long as you get the service? A. As long as I get the service, no, sir.

Q. All right, sir, and do you know whether or not it is necessary for the Seaboard Railroad to go through the property and premises of the Jacksonville Terminal Company, [40] in order to serve your facility? A. No, sir, I don't.

Q. And again, do you know whether it is necessary for the Atlantic Coast Line Railroad to traverse it—the Terminal Company, as opposed to the Moncrief Yard, in order

to serve your facility? A. It is my understanding, and again it is what I have been told, that the wood that we bring up from down in the State of Florida, has to come through it. But the wood that we bring in from the north does not.

Mr. McAlliley: All right, sir.

I have no further questions.

Mr. Grissett: I have no further questions.

May Mr. Kimbrough be excused?

By Mr. McAlliley:

(Resuming examination.)

Q. Referring to Plaintiff's Exhibit No. 1, Mr. Kimbrough, and directing your attention to it, can you tell us essentially where you are located with reference to this map? A. I am up in this vicinity (indicating).

Q. You are to the north? That would be the top right-hand side of this map, or the top of the map, proceeding north; is that right? [41] A. Yes.

Q. And, is that located off in the direction of Mayport, Florida? A. Yes, sir, it is on Eastport Road off Heckscher Drive.

Q. Is that essentially northeast of the City of Jacksonville? A. Yes, sir, it is northeast of the City limits.

Q. And it is served by A. C. L. and the Seaboard? A. Yes, sir.

Mr. McAlliley: We have no further questions.

The Court: May we have it understood that if you do not agree for any particular witness to be excused, you will say so as to a given witness, but oth-

erwise, they may be excused once they are finished testifying?

Mr. McAlliley: Yes, Your Honor.

Counsel: (Shaking heads in affirmative.)

Mr. Grissett: Thank you.

(Witness excused.)

PAUL ORLEMAN, having been produced and first duly sworn as a witness, testified as follows:

[42] *Direct Examination by Mr. Grissett:*

Q. Would you state your name, please? A. Paul Orleman.

Q. And what is your occupation, Mr. Orleman? A. I am the plant manager of the Kaiser Gypsum Company plant at Dames Point.

Q. Mr. Orleman, does the Kaiser Gypsum plant at Dames Point obtain any of its materials by rail freight service? A. Yes.

Q. How much of your work is done from materials received by rail freight? A. Everything but gypsum ore is received by rail.

Q. And which railroads serve the Kaiser Gypsum plant? A. The A. C. L. and the Seaboard.

Q. Do you know, Mr. Orleman, approximately how many carloads of freight you receive each month by rail? A. We receive 30 to 50 carloads, depending upon the amount of paper that we use, basically.

Q. Do you ship, also, by rail, from that plant? A. We do, yes, about 80 to 100% of our shipments. Again, this varies in the direction in which the material is delivered.

We do truck a small amount of it into the Florida [43] market.

Everything else is delivered by rail.

Q. So you know about how many freight cars a month you ship out? A. It will run up as high as 150, at times.

Q. All right, sir, what other raw materials that you get in per month, if you will name them for us? A. We get paper and starch and vermiculite ore, orzan—and two or three other raw materials used in the manufacture of gypsum wallboard.

Q. What is it that you ship out? A. We ship finished gypsum wallboard and gypsum finished products.

Q. How many employees are there in that plant? A. We have 77.

Q. What would a shutdown of rail transportation in your plant, what kind of effect would this have on your operation? A. It would close us down.

Q. Do you have any idea what your loss per day would be money-wise, if the plant had to shut down? A. It would be in the neighborhood of two thousand to three thousand dollars—somewhere along in there, not counting a loss to our people.

[44] The Court: I am unfamiliar with the term "orzan."

The Witness: Orzan is a wood lignite product that comes from Wisconsin and up in the northwest.

We use it in our manufacturing to reduce the water carrying content. It is a material that works on the surface tension of the water, and reduces—it is a wetting agent, in effect. It is much like a detergent action.

The Court: Thank you.

Mr. Grissett: I have no further questions.

Cross Examination by Mr. McAlliley:

Q. Mr. Orleman, I have just a few questions, sir.

The materials that you produce in your plant located here in Jacksonville, are they of such size and shape that they can be loaded on trucks and shipped by trucks? A. Yes, sir, they are.

Q. And is the reason you ship by rail to your northern markets and outlets, that it is cheaper than shipping by truck? A. No, sir, not necessarily. Most of our customers [45] require that we ship rail, because they are on rail sidings or close to team tracks.

Q. In other words, with your customers, it is more convenient to them, in other words? A. Yes, sir.

Q. Now, where, in referring to Plaintiff's Exhibit No. 1 in evidence, Mr. Orleman, would your plant be located here in the City of Jacksonville? A. (Indicating on map.)

It doesn't show on this map. We are actually out just a little bit past St. Regis on Heckscher Drive.

Q. And again, would that be northeast of the City of Jacksonville? A. Northeast, yes.

Q. And you are served by both Seaboard and Coast Line Railroads? A. That is correct, yes, sir.

Q. Do you know, sir, whether the Seaboard Railroad has to come through the premises of the Jacksonville Terminal Company in order to reach your facility? A. I assume that they do, sir.

Q. Do you know, sir? A. Yes, sir.

Q. All right, sir, how about the Atlantic Coast Line [46] Railroad? A. I understand they have to do the same.

Q. All right, sir, do you have any direct personal knowledge as to the trackage of either one of these two railroads, or is it simply what somebody has told you? A. No, actu-

ally, I haven't gotten into that very thoroughly, because we are on the outskirts of town and actually up until this time it has had no bearing on anything that may come up in the plant.

Q. During the month of April, were you able to ship your products and receive your products satisfactorily? A. Not necessarily, no. We did have trouble getting equipment during April.

Q. All right, sir, was that because of an interruption in rail traffic? A. This, I don't know.

Q. And, so far as any interruption of rail traffic is concerned, did you notice any problem of receiving and shipping by the Seaboard Railroad during the month of March or April, of 1966? A. Again, the only thing I can say is that I know we had problems. Where they emanated, I don't know.

Mr. McAlliley: All right, sir, that's all we have, Your Honor.

[47] Mr. Grissett: I have no further questions. Thank you, Mr. Orleman.

(Witness excused.)

Mr. Grissett: Mr. Satterwhite.

WILLIAM E. SATTERWHITE, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Grissett:

Q. Would you state your name, please, sir? A. William E. Satterwhite.

Q. And what is your occupation, Mr. Satterwhite? A. Assistant Superintendent, Seaboard Air Line Railroad.

Q. Mr. Satterwhite, on May 4, 1966, did you have any occasion, or did you see any picket lines? A. Yes, sir, I did.

Q. And where were these located, Mr. Satterwhite? A. There were pickets in the several entrances to the Terminal Company and at the routes leading to the interchange facilities.

Q. Can you name some of the streets? A. There were pickets at Acorn Street, Church Street, Beaver Street, Stockton Street, and there were those on Bay [48] Street.

Q. Mr. Satterwhite, did you notice any signs on these pickets? A. Yes, they were all carrying signs.

Q. What did those signs say, if you remember? A. That the Brotherhood of Railroad Trainmen were on strike.

Q. Mr. Satterwhite, after these picket lines went up, what was the attitude of Seaboard's train crews? A. They refused to cross the picket lines.

Q. How does this affect the operation of the Seaboard Air Line Railroad Company in the Jacksonville area? A. Well, it virtually brings it to a standstill. It affects our interchange with the several railroads here, all of which must pass through the Terminal Company property, and would effectively disrupt the movement of some 870 cars per day through the Terminal Company.

Q. Seaboard cars per day? A. Yes, sir.

Q. Mr. Satterwhite, where does the Seaboard do its interchange with other railroads in the Jacksonville area? A. Seaboard interchanges with the Florida East Coast Railroad in what is known as the "Y. H. Yard."

We receive traffic from the F. E. C. Railroad in [49] Honeymoon Yard. We take interchange movements to the Atlantic Coast Line yard, what is known as the yard to yard delivery.

The Atlantic Coast Line delivers to the Seaboard yard, all movements being through the Terminal Company routes.

We deliver to the Southern Railroad at 8th Street, and Southern delivers to our yard at West Jacksonville. Again, all the delivery movements having to be made through the Jacksonville Terminal Company.

Q. Do all of these interchanges that you have mentioned have to pass through the Jacksonville Terminal Company property? A. They do, yes, sir.

Q. Mr. Satterwhite, the Stockton Street that you mentioned a few minutes ago, is that railroad crossing across Stockton Street? A. There is one just south of Beaver Street on Stockton, which is the Seaboard Railroad, yes.

Q. Do any other tracks cross that street, other than Seaboard? A. Only the Seaboard.

Q. How about at Acorn Street? A. At Acorn Street, the Seaboard tracks exclusively.

Q. And there were pickets at both of those crossings? A. Yes, sir.

[50] Q. Mr. Satterwhite, how mnay trains does the Seaboard operate through the Jacksonville Terminal Company on a daily basis? A. Forty per day. There are twelve regularly assigned passenger trains, eight regularly assigned freight trains, and some twenty yard movements.

Q. What do these yard movements consist of? A. They consist of cars destined to industrial areas and interchange movements.

There are about 88 cars per day, on an average, which move through the Terminal Company, destined to and from industrial areas east of the Jacksonville Terminal Company.

293 cars that move in assigned freight service north and south, which must pass northward and southward through

the Jacksonville Terminal Company, and, in the period May 1st through the 7th, by actual count from which these figures come through—or over the period these figures were taken from, there were 399 cars in interchange deliveries per day, through the Jacksonville Terminal Company.

Q. All right, sir. Mr. Satterwhite, can you take a look at that map (indicating), which is Plaintiff's Exhibit 1, and trace for us on there how the Seaboard moves through the Jacksonville Terminal Company yards in its through freight movements. [51] If you will just point it out for us, please, sir.

Counsel: Mr. Satterwhite, if you will just stand aside, so other counsel can see it.

The Witness: Let me get oriented.

The Court: That's all right, I can see.

The Witness: I am trying to get oriented with respect to the map here.

The Court: That's all right.

(At this point Judge Waybright stood up so he could see.)

A. Our movements from West Jacksonville Yard here (indicating) are brought into Y. H. Yard, which is located right adjacent to the Honeymoon Yard for delivery to the Atlantic Coast Line, which receives traffic from the F.E.C. Railroad in Honeymoon, which brings us through—

Mr. McAlliley: Excuse me, Mr. Satterwhite. Isn't that the West Jacksonville Yard?

Mr. Grissett: If you will look closer at the streets on that and get yourself better oriented.

Mr. McAlliley: Excuse me, I did tell you.

A. Here is the Terminal Company (indicating).

Mr. McAlliley: Excuse me. All right. That's all right.

[52] A. All right. Our movements running from West Jacksonville Yard into Honeymoon Yard, which is located here (indicating), and in the Y. H. Yard serving to the F. E. C. Railroad, we receive traffic from the F. E. C. Railroad in Honeymoon Yard which must move back to our yard here at West Jacksonville (indicating).

Now, through trains coming from the West Jacksonville Yard through B. S. tower and continue on north to Savannah via Panama Park—our Coast Line deliveries come through to us from the A. C. L. yard through the Jacksonville Terminal Company B. S. tower around to our West Jacksonville yard. The industrial cuts east of the Jacksonville Terminal Company must go through from West Jacksonville yard, through B. S. tower, and through what is known as a Savannah freight lead on over into the eastern parts of town.

Our Southern deliveries run from West Jacksonville yard through the Terminal Company, through what is known as the Savannah freight lead all over into 8th Street, 8th and Ionia, and Evergreen, and we deliver, of course, through the Jacksonville Terminal Company, through this same facility.

I believe that covers them all.

Q. All right, sir, Mr. Satterwhite, is it necessary for the Seaboard to pass through Jacksonville Terminal Company to make deliveries or to interchange with the [53] Jacksonville Port Authority Talleyrand docks? A. It is, yes, sir.

Q. Mr. Satterwhite, is it necessary to pass through the Jacksonville Terminal Company, for the Seaboard to pass through the Jacksonville Terminal Company to service the Capitol Concrete Company's Talleyrand facility? A. Yes, sir, it is.

Q. Is it necessary for the Seaboard to pass through the Terminal Company yards to serve Capitol Concrete Company's Heckscher Drive facility? A. Yes, sir.

Q. Is it necessary for the Seaboard to pass through the Jacksonville Terminal Company in order to service the Capitol Concrete Company's Palmetto plant? A. Yes, sir, it is.

Q. Is it necessary for the Seaboard to pass through Jacksonville Terminal Company in order to service the Capitol Concrete Company's North Main Street plant? A. Yes, sir.

Q. Is it necessary for the Seaboard to pass through the Jacksonville Terminal Company in order to serve the St. Regis Paper Company at Eastport? A. Yes, sir.

Q. Is it also necessary for the Seaboard to pass [54] through the Jacksonville Terminal Company in order to service the Kaiser Gypsum Plant at Dames Point? A. Yes, sir, it is.

Q. Mr. Satterwhite, does the Seaboard handle any United States mail? A. Yes, sir, it does.

We handle an average of 45 cars of storage mail per day in R. P. O. cars and six regularly scheduled mail trucks operating between Jacksonville and Florida points and Miami, and Fort Lauderdale in the mail facility, Jacksonville Termina' Company.

Q. Mr. Satterwhite, to your knowledge is the Seaboard Air Line Railroad Company engaged in any labor dispute with any of the defendant labor organizations in this suit?

Mr. McAlliley: Excuse me, Mr. Satterwhite.

For the record, Your Honor, we would enter an objection primarily on the ground that this calls for a legal conclusion as to what constitutes or who is a part of a major dispute is in the province of the Railway Labor Act.

In other words, this is a legal word of art used under Railroad Labor. I don't mind him asking if they are on strike, or anything like that.

[55] The Court: I think your objection is technically well taken, and I also think you can develop the information by a different form of question.

Q. All right, sir.

Mr. Satterwhite, to your knowledge, does the Seaboard Railroad now have pending any demands by any of its labor organizations, as to anything which might arise in the normal course of your business, which you would term a labor dispute? A. No, there is no such.

Q. Now, does the same question in regard to these defendant labor organizations— A. Nor with the defendant labor organizations.

Mr. Grissett: I have no further questions.

The Court: Just for my information, what is an R.P.O. car?

The Witness: A Railroad Post Office car.

Cross Examination by Mr. McAlliley:

Q. Mr. Satterwhite, how long have you worked or been connected with the Seaboard Railroad in a supervisory capacity? A. About fifteen years.

[56] Q. And prior to that, sir, did you work for the Seaboard Railroad? A. Yes, sir, I did.

Q. What capacity, sir? A. Switchman, yard conductor, safety supervisor, trainmaster.

Q. And during that time were you a member of the Brotherhood of Railroad Trainmen? A. Yes, sir, I was.

Q. And your father, before you, I believe, was Assistant President of that organization? A. That's correct.

Q. And you are still a member of that organization? A. Yes, sir.

Q. Are you familiar with railroad men honoring picket lines and fellow railroad men? A. I am.

Q. You have seen that during your twenty or thirty years, have you not, sir? A. Yes, sir.

Q. All right, sir, now, do you know whether the B.R.T. has a labor contract on the property of the Jacksonville Terminal Company property? A. I couldn't say conclusively, no, but I believe they [57] do. I think they do.

Q. All right, sir, the B.R.T. now has a labor contract with the Seaboard Railroad? A. Yes, sir, it does.

Q. And so does the Order of Railroad Conductors and Brakemen? A. It does.

Q. And so does the Brotherhood of Locomotive Firemen and Enginemen? A. That's correct.

Q. And all of these people are so-called "operative unions" within the parlance of the railroad industry?

Mr. Grissett: Your Honor, at this point, we would like to interpose an objection on the grounds that this is not within the purview of cross, since none of this was covered on direct examination, and, on the further ground that it is completely immaterial and irrelevant to the issues we are developing here.

The Court: The first part of your objection is certainly well taken. That is, it is not within the purview of the direct examination.

It is rather difficult for me to know whether it will come within the issues that [58] will be developed before we get through it, or not.

But, I will sustain your objection on the first ground.

Mr. McAlliley: We would like to request that Mr. Satterwhite be available to us at such time as we need him, Your Honor.

The Court: That is what I was also going to comment. I wonder if you will get any mileage out of your objection.

Mr. Grissett: I am trying to get him to tell me what he wants.

Mr. McAlliley: And he is going to have to be patient for that, Your Honor.

The Court: Do you insist on your objection?

(Whispered conference between Mr. Towers and Mr. Grissett.)

Mr. Grissett: Your Honor, we don't have any objection provided that he will go ahead and conduct it in such a way that it will be his direct examination, and quit leading him.

Mr. McAlliley: Your Honor, I will be glad to leave him for a while and go into some matters on direct, if I may. I will cover the areas [59] covered on direct examination first.

The Court: Well, when you do go into matters not covered on direct, please don't lead the witness.

Q. Mr. Satterwhite, on Stockton Street, is this a public thoroughfare? A. Yes, sir.

Q. In the City of Jacksonville? A. It is.

Q. All right, and is it the closest point that pickets can get to your interchange yards on the property of the Terminal Company without trespassing on the property of either Seaboard or the Terminal Company? A. Yes, sir.

Q. And what two yards are those that you interchange with in referring to Plaintiff's Exhibit 1 in evidence (indicating)?

What two yards do you interchange traffic with? A. Honeymoon Yard and Y. H. Yard.

Q. Are they both on the property of the Terminal Company? A. The Y. H. Yard is on the property of the Terminal Company. To the best of my knowledge, the Seaboard owns Honeymoon Yard.

[60] Q. All right, sir, again and this is a question, but again, within the confines of the property of the Terminal Company it is all part of the same rail complex? A. Yes, sir.

Q. For the record, it is shown in green here on Plaintiff's Exhibit 1 in evidence? A. That's correct.

Q. Now, when you observed the pickets on May 4, 1966, and observed their signs, could you tell the Court what railway labor organization was reflected on that sign? A. The Brotherhood of Railroad Trainmen.

Q. And, was it obvious to you that this was the only brotherhood mentioned on the sign, itself? A. I saw no other mention of another organization.

Q. Now, as to Stockston Street, sir—

Let me withdraw that question.

What, exactly, was the language on the picket signs as you recall it? A. I don't specifically recall it.

Q. All right, sir.

Will you have a photograph of that later for the Court?

Mr. McAlliley: I will get one if you don't.

I think it is important.

[61] Mr. Towers: Well, let me suggest that we put all of the pictures in now.

Would that be all-right?

Mr. McAlliley: If they are the same ones we had before.

Mr. Towers: I am not trying to select any, but there are supposed to be two sets here, and I was just trying to make sure we didn't have any duplicates. Will you help me here, Mr.— (Sorting out pictures.)

There ought to be 18, I think.

Mr. Towers: Let's go ahead and get them all marked first.

Mr. McAlliley: (Examining photographs.)

The Court: 19 photographs have been received in evidence without objection as Plaintiff's Exhibits No. 2 through 20, inclusive.

(The instruments last above referred to were received in evidence and marked Plaintiff's Exhibits 2 through 20, inclusive.)

(Discussion off record, between counsel, relative to stipulation.)

[62] STIPULATION

(The following stipulation was dictated by Mr. Adams, as follows:)

By Mr. Adams: We have stipulated as to the $50,000—the facts.

Mr. Milledge: Your Honor, what the purpose of this is, is that in the event this matter is within the jurisdiction of the National Labor Relations Board, there is a floor below which its jurisdiction does not go, and that is generally considered to be $50,000.

The stipulation here entered into is that the Jacksonville Terminal Company has sufficient interstate commerce to bring it above the floor, that is in excess of whatever the minimum economic jurisdiction is.

Mr. Coffman: The stipulation that the Jacksonville Terminal Company is willing to enter into is that it has revenue in excess of $50,000 concerning the NLRB's direct inflow and direct outflow stampage.

We stipulate as to those facts only, and nothing else concerning conclusions of interstate commerce.

Mr. McAlliley: That's all we are seeking.

[63] Mr. Coffman: All right, sir.

The Court: Ten minutes, gentlemen?

(Whereupon a short recess was had.)

The Court: Are you ready to go again, gentlemen?

Mr. McAlliley: Yes, Your Honor.

By Mr. McAlliley (Resuming examination):

Q. Mr. Satterwhite, on May 4, 1966, you have told us that you observed certain picketing? A. Yes, sir.

Q. At any time did you see any violence on behalf of the pickets— A. I did not.

Q. On the part of the pickets? A. No, sir.

Q. Did you see them threaten anybody? A. No, sir, I did not.

Q. Did you see any untoward incident of any kind—well— A. (Shaking head.)

Q. Let me finish. On the picket lines that you observed on May 4, 1966? A. None whatsoever.

[64] Q. All right, sir, as to the picket signs you observed and I will show you Plaintiff's Exhibit No. 2 in evidence, which is 8X10 photograph, and ask you to look at it and ask you if the sign reflected on the individual there, is the sign you observed? A. It is.

Q. And, are you able to read the language on that sign into the record, so we will have it on the record, or if you will allow me to read it into the record, Your Honor, so it will be in that form, as opposed on the photograph?

(Reading:)

"Fellow railroad men do not cross or assist F. E. C., B. of R. T. on legal strike against F. E. C.

"Please make common cause with us in major dispute against F. E. C."

Now, was this the sign that you observed on all the pickets on May 4, 1966? A. It appears to be, yes.

Q. Now, as a railroad man, sir, what does the B. of R. T. mean to you? A. Brotherhood of Railroad Trainmen.

Q. Is that a railway labor organization? A. It is.

[65] Q. Is it a national organization? A. Yes.

Q. Does it represent the railroad employees? A. It does.

Q. And what does F. E. C. mean to you? A. Florida East Coast.

Q. And again, that is a railroad? A. Yes, sir.

Q. And a common carrier? A. Yes, sir.

Q. In interstate commerce? A. Yes, sir.

Q. All right, sir.

And, is the Seaboard Air Line Railroad also a common carrier by rail in interstate commerce? A. It is.

Q. All right. Now, as to the pickets at Stockton Street, Mr. Satterwhite, could you tell the Court how many pickets you saw there at any one time on May 4th, 1966? A. I believe two.

Q. And Stockton Street insofar as the Seaboard is concerned, would be the area picketed that would cause you the most difficulty in your operations, insofar as the Terminal is concerned? [66] A. I believe so.

Q. All right, sir.

Now, what areas of picketing affect your crosstown movements, between the Seaboard and the Coast Line? A. It would be the picketing at Stockton Street, and at Acorn Street, at Church Street, and Beaver Street.

Q. All right, sir, now, was the offer ever communicated to you, sir, of a willingness to allow all cross-town movements where no interchange with F. E. C. was involved? A. No, there was not.

Q. All right, sir, as Assistant Superintendent, you never heard of this? A. I never heard of it.

Q. All right, now, at Acorn Street, could you tell the Court how many pickets you saw on May 4, 1966? A. I don't recall. I believe there was one. I'm not certain of that at all.

Q. And, on Stockton Street—you have told us that. I am sorry.

On Beaver Street? A. Two, I believe.

Q. All right, sir, now, where else did you observe pickets? A. At Acorn Street and at Bay Street.

[67] Q. How many pickets did you observe at Acorn Street? A. One or two.

Q. And, at Bay Street, sir? A. I would estimate six or eight.

Q. And what area did this six or eight pickets cover? A. There was picketing in the area where mail trucks operate to and from.

There was picketing around the front entrance or main entrance to the Terminal Company and a side entrance—I don't know the name of the street—down where the Dining Car Department is.

Q. Well, insofar as these six or eight pickets are concerned, would it be a fair statement to say they would cover an expanse of three or four blocks? A. It would.

Q. All right. So, is it also fair to say that at no time there were large masses of pickets congregated in any one location? A. There were not.

Q. There were not? A. No.

Q. Now, as Assistant Supervisor of the Seaboard Railroad, Mr. Satterwhite, are you aware of the existence which you know to be a major dispute for F. E. C.? [68] A. Yes.

Q. And, could you tell the Court how long such a dispute has existed, to your knowledge? A. For more than three years.

Q. And did it commence, sir, on or about January 23, 1963? A. It did.

Q. And, at that time, sir, did the Seaboard Railroad do anything, insofar as preventing F. E. C. cars from coming into the Jacksonville Terminal Company? A. As best I recall, there was no interchange of traffic with the F. E. C. Railroad for three or four days.

Q. All right, did either Seaboard, or to your knowledge, Jacksonville Terminal Company, in these initial days, do something to prevent the interchange of traffic? A. The F. E. C. embargoed all traffic to and from its line check.

Q. Did the Jacksonville Terminal Company, to your knowledge, advise F. E. C. at any time that it would not accept interchange, because of the fear of picketing of the Terminal Company? A. Not to my knowledge.

Q. Now, sir, for the record, could you tell the Court what we mean when we speak of interchange between two rail [69] carriers? What is the function of interchange? A. The function of interchange would be, to take traffic which has had a line haul movement on our railroad, or which has developed in industrial areas, locally, and is destined for further movement over the F. E. C., we would interchange it to the F. E. C. Railroad for its further movement on to an F. E. C. destination, and, conversely, the opposite would be true.

Q. Now, sir, in order to effectively stop a railroad from either receiving railroad cars onto its property, or getting railroad cars off of its property, would it be necessary to halt interchange? A. It would be.

Q. Now, insofar as the Seaboard Railroad is concerned, we have interchanged in Miami. Are you familiar with that, sir? A. Yes, I am.

Q. All right, can you tell the Court the location, just very briefly there? A. The principal locations for interchange at Miami, is south of Miami at what is known as "Oleander."

Q. All right, sir, is that out behind the airport at Miami? A. It is.

Q. All right, and do you have another interchange, or [70] an officially designated interchange by the Interstate Commerce Commission there in Miami? A. We do.

Q. All right, sir, where is that? A. 11th Street, I believe is the designation.

Q. And going north, on F. E. C., sir, do you have any interchange at the Port of Palm Beach and West Palm Beach, Florida? A. Yes, we do.

Q. All right, sir, and just where are those interchanges located there in Palm Beach County? A. I wouldn't know the street location, but we do interchange traffic with the F. E. C. at Palm Beach.

Q. And, other than the areas in the Miami and Palm Beach area, is the only other remaining area of interchange that in the Jacksonville Terminal Company? A. It is.

Q. And sir, as Assistant Superintendent, could you give this Court some reasonable estimate of the percentage of interchange which is handled between F. E. C. and Seaboard here in Jacksonville, out of the total amount of interchange? A. I would say it would be 85%.

Q. All right, sir?

And, insofar as the F. E. C. receiving cars from [71] the Seaboard Railroad, and halting that interchange, would it be a fair statement to say that the effective picketing of the Terminal Company would be instrumental in halting the interchange with F. E. C.? A. Yes, it would.

Q. Now, sir, as a long time railroad man, could you tell this Court what agency of the Federal Government you submit your disputes to, that you come in contact with on the Seaboard Railroad?

Mr. Grissett: Your Honor, I will object to that on the ground that he hasn't yet shown that Mr. Satterwhite has anything to do with those disputes, from an administrative viewpoint.

Mr. McAlliley: Whether he has that knowledge is peculiar within his province. In that occupation.

The Court: I think you would need a predicate. The only thing I know is Mr. Satterwhite says he is Assistant Superintendent. I think you had better find out first, before you ask him, whether he knows anything about how this other thing is handled.

Mr. McAlliley: Fine, Your Honor. He also said [72] there was no "dispute" at the Seaboard, and that's the reason for his knowledge.

By Mr. McAlliley:

Q. As Assistant Superintendent, and we have had experience with this before, do you conduct investigations? A. I do.

Q. And if investigation results in employee discharge and the employee appeals that discharge, where does it go, for example? A. Well, it is appealed, first, to the highest personnel officer of the railroad, and then to the National Labor Relations Board.

Q. The National Railroad Adjustment Board? A. I mean the National Railroad Adjustment Board.

Q. All right, and insofar as the Brotherhood of Railroad Trainmen is concerned, would that be the first division of that Board, sir? A. That is correct.

Q. And that is something that you are familiar with in your work? A. Yes, sir.

Q. Are you also familiar with what is known as "Section 6 Notice"? A. Yes, sir.

Q. Would you tell Judge Waybright what is a "Section 6 [73] Notice"?—under the Railway Labor Act? A. Well, I am not really qualified to delve into actual Section 6 Notice and its implications and involvement with labor relations.

Q. All right, sir, well, can you perhaps answer this: Do you know whether at this time there are any outstanding Section 6 Notices between the BRT and your railroad? A. No, I don't.

Q. So, you have no idea about this, do you, as to the existence of any outstanding Section 6 Notices? A. No, I have no idea of the existence of any Section 6 Notice.

Q. Now, do you know what agency of the Federal Government deals with and handles problems surrounding a Section 6 Notice, served under the Railroad Labor Act? A. Well, it would ultimately result in mediation.

Q. And is mediation, and the services of mediation proffered by the National Mediation Board? A. It is.

Q. And again, is this Board, to your knowledge, sir, which principally deals with the subject of railroads and their labor relations? A. I have no idea of whether they deal exclusively [74] with railroad problems or not.

Q. Do they deal with railroad problems? A. They do.

Q. And, has that been the case as long as you have been connected with the railroad work? A. It has.

Q. And, again, the first division of the National Railroad Adjustment Board would be a similar situation? A. That's right.

Q. It is something that you have dealt with during your railroading career? A. Yes, sir.

Q. All right.

Now, of course, in this connection, you have been dealing at times as an official, or supervisory official of the Seaboard Air Line Railroad? A. Yes, that's correct.

Q. All right.

Now, sir, is there any way in referring to Plaintiff's Exhibit No. 1, for a picket to get down into the Terminal Company (exhibiting)—for a picket to get down into the Ter-

minal Company and to picket at the physical point of interchange between F. E. C. and Seaboard, without first trespassing on somebody's private property? [75] A. No, there isn't.

Q. All right, sir.

And, that would be Honeymoon and Y. H. Yards, would it not, sir? A. That's correct.

Q. And the private property we would be talking about would be the property of the Terminal Company or the property of the Seaboard? A. Yes.

Q. All right.

Now, is the closest point, I believe you have told us before, to that interchange would be Stockton Street? A. It is.

By the Court:

Q. Mr. Satterwhite, what does the term "line haul" mean? A. An intercity movement between points—a switching movement is the same terminal.

By Mr. McAlliley:

Q. Now, could you tell this Court, and referring again to Exhibit 1, as you come out of Wildwood towards Jacksonville, is there any junction point on the Seaboard [76] Railroad that your northbound trains can use to avoid the City of Jacksonville? A. Baldwin.

Q. All right, sir, from Baldwin, can you go to Savannah, Georgia, north? A. Right.

Q. And would this be your main line track? A. Yes.

Q. Would there be any other main line track north out of Baldwin, other than to Savannah? A. Oh, yes, to Tallahassee.

Q. All right, sir, and again trains coming from Miami from Wildwood could go through Baldwin, to get north or west, as the case may be? A. Right.

Q. All right, sir, now on May 4, 1966, sir, all this mail that you were talking about, was it unloaded at the Terminal Company, or was it unloaded out at Moncrief Yard? A. None was unloaded at Moncrief, to my knowledge.

Q. All right.

Now, do you interchange with any other carrier, other than F. E. C. in Y. H. Yard and Honeymoon Yard? A. Well, we deliver to the Jacksonville Terminal Company in Y. H.

[77] Q. All right, how about Honeymoon Yard? A. No.

Q. Where do you classify trains and handle them in interchange with the Coast Line? A. We classify the interchange traffic at West Jacksonville Yard.

Q. Where do you interchange your traffic with the Coast Line? A. We deliver to the Coast Line yard.

Q. And, where is that? A. At Moncrief.

Q. All right, sir.

How about the interchange of traffic with the Southern Railroad, where does that take place? A. That takes place at 8th Street or the southern end of what is known as F. and J. Yard.

Q. All right, sir, F. and J. Yard would be your interchange here in Duval County with the Southern Railroad? A. Yes.

Q. And again, this F. and J. Yard is not on the premises of the Jacksonville Terminal? A. No, it is not.

Q. And the West Jacksonville Yard, as we have seen earlier, is not on the premises of the Jacksonville Terminal Company? [78] A. It is not.

Mr. McAlliley: That's all I have.
Mr. Grissett: I have nothing further.
May Mr. Satterwhite be excused?
Mr. McAlliley: I have one more question.
I have one more question, Ted.

Further Cross Examination by Mr. McAlliley:

Q. Do you know whether the Seaboard Air Line Railroad owns any part of the Jacksonville Terminal Company? A. It does.

Q. Can you tell us how much? A. No.

Mr. McAlliley: That's all I have.

Redirect Examination by Mr. Grissett:

Q. Mr. Satterwhite, to make interchange with the Coast Line from the Seaboard to the Coast Line, is it necessary to pass through the Terminal Company? A. It is.

Q. How about for the Coast Line to make interchange with the Seaboard? [79] A. They pass through the Terminal Company.

Q. How about interchanging with the Southern in these two yards that you have mentioned, is it necessary to pass through the Terminal Company? A. Yes, sir.

Recross Examination by Mr. McAlliley:

Q. One question.

In order to pass through the Terminal Company, what streets does the Seaboard have to cross to interchange between the Seaboard and the Atlantic Coast Line Railroad? A. With the Atlantic Coast Line, the interchange would pass over Stockton Street and Acorn Street.

Q. All right, sir. How about the Southern? A. With the Southern, we would pass over Stockton Street, Church Street and Beaver Street.

Q. All right, Mr. Satterwhite, as Assistant Superintendent, would you be able to advise someone, for example, pickets, whether a train had any F. E. C. cars in it or not? A. I could inform myself and advise them.

Q. All right, in other words, would this be a matter that would be readily ascertainable? A. Yes.

[80] Q. All right, sir, and you would be able to ascertain whether or not railroad cars in any given cut of cars, or any train, would be ultimately destined for the F. E. C.? A. Yes, sir.

Mr. McAlliley: All right, that's all.

Mr. Grissett: I have no further questions.

Mr. McAlliley: One more question.

Q. Would it be a fairly simple procedure to designate a train as bound for F. E. C., or not bound for F. E. C.? A. Yes.

Mr. McAlliley: That's all we have.

Mr. Grissett: You may be excused, sir.

(Witness excused.)

Mr. Grissett: Mr. Barrett, Charles Barrett.

CHARLES BARRETT, having been first duly sworn, testified as follows:

Direct Examination by Mr. Grissett:

Q. Please state your name, sir. A. Charles Barrett.

Q. What is your occupation, Mr. Barrett? [81] A. Assistant General Freight Agent.

Q. For what? A. For the Seaboard Railroad.

Q. And where are you employed by the Seaboard? A. Jacksonville.

Q. Mr. Barrett, does the Seaboard furnish rail freight service to industries in Jacksonville and Duval County? A. Yes, sir.

Q. Where are those industries generally located, if you can give us any indication of where they are in the city or the county? A. Mostly north and east of our—in our yard, at McDuff and Beaver, and then, there is a good many of them west of there.

Q. All right, do any of them lie east and north of the Jacksonville Terminal Company? A. Yes, sir, many of them.

Q. In order for the Seaboard to furnish rail freight service for those industries which lie east and north of Jacksonville Terminal Company, is it necessary for the—to pass through the Jacksonville Terminal Company for those switching heads? A. Yes, sir.

Q. Mr. Barrett, I hand you a list, which is a photographic sheet, which is marked "Schedule A."

[82] Take a look at that, please, sir (handing papers to the witness)? A. (Examining papers.)

Q. After you have examined it, would you please tell us just what that list is of? A. This appears to be a list of

the industries located there adjacent to the Jacksonville Terminal Company.

Q. Does the Seaboard have anything to do with those industries? A. We switch a few of them, and the Jacksonville Terminal Company switches the rest of them there for our account.

Q. I believe that is marked at the head of it "Schedule A," is it not? A. That's right.

Mr. Grissett: We offer that as Plaintiff's Exhibit.

Mr. McAlliley: No objection.

The Court: It will be received as Plaintiff's Exhibit No. 21.

(The instrument last above referred to was received in evidence and marked Plaintiff's Exhibit No. 21.)

By Mr. Grissett:

Q. I hand you a three-page list, which is stapled [83] together, and ask you to examine that, please, sir (tendering witness papers). A. (Examining papers.)

Q. And what does that list consist of, sir? A. This appears to be a list of the industries there located east and north of the terminal company.

Q. And, are those industries served by the Seaboard? A. Yes, sir.

Q. Is it necessary for the Seaboard switching movements to pass through the Jacksonville Terminal Company properties in order to service those industries? A. Yes, sir.

Mr. Grissett: I would like to offer that as Plaintiff's Exhibit No. 22.

Mr. McAlliley: No objections.

The Court: It will be received as Plaintiff's Exhibit No. 22.

(The instrument last above referred to was received in evidence and marked Plaintiff's Exhibit No. 22.)

By Mr. Grissett:

Q. Mr. Barrett, through the rail freight service to those shippers which are listed on these two exhibits, 21 and 22, just introduced into evidence, what is the average monthly freight income from the Seaboard, for the freight service furnished to those shippers on those two schedules?

[84] A. Well, we would estimate around three hundred and fifty thousand to a half a million dollars.

The Reporter: Will you give me that answer again, please?

A. Three hundred and fifty thousand to a half million dollars.

Mr. Grissett: I have no further questions.

[85] *By Mr. Milledge*:

Q. The movements, Mr. Barrett, that you have been talking about, are movements that originate over in this yard on Plaintiff's Exhibit 1, that is shown in orange.

Is that correct, sir? A. Yes, that's our yard.

Q. The West Jacksonville yard? A. Yes.

Now, they originate there—when they go across, when they come out of the industry, of course, they come back across there.

Q. And all they do, as far as the Jacksonville Terminal is concerned, is they just move through the north edge of that? A. This is an operating matter that I am not too concerned with in my capacity, but I understand that there are movements, also, that are switched around in the Terminal Company there for classification purposes.

Q. The ones of yours that go across, just from west to east, just move through the north edge of the yard? A. This would be right, here (indicating).

Q. And, on May 4th, 1966, did those movements continue all day on May 4th? A. As far as I know, we had some service. I don't know how much it was there.

[86] I wasn't too involved in that, in my capacity.

The operating man could tell you that.

Q. What you did was, you put supervisors on of those movements, at Stockton Street and just operated them straight through to the other side— A. That is my understanding.

Q. —the supervisors got off and the crews moved them. Isn't that correct? A. That is my understanding, yes, sir.

Q. So, all of your east-west movements did continue, in spite of the pickets? A. In some small way, yes. I don't think it was full capacity, by any means.

Q. You don't know one way or the other about that, I take it? A. I wasn't there, no. I didn't actually witness it.

Q. You do know that some of your freight moved across? A. I know for the reason that some of my own employees there were on duty there.

That's why I know so much about it.

Q. On duty running trains, is that what you mean? A. Well, to do what you said—switch from one side to the other.

Q. Running them across the north part of the terminal? A. That's right.

[87] Q. Now, to your knowledge, you have two movements, or two types of movements, from your West Jacksonville yard and actually go down into the terminal itself, do you not?

One, cars that are destined for the terminal company and one group that are destined for interchange with FEC on Terminal Company property? A. This is right.

Q. Isn't that correct? A. That's right.

Q. And, to your knowledge, do those two types of movements come down in separate trains or separate cuts of cars? A. I can't answer that. Some of them may. And, in other cases, they may not.

Q. Do you know where the ones destined for the Terminal Company are delivered, where, in the Terminal Company? A. To my knowledge, the Terminal Company in its interchange with us, the freight is on a what they call "honeymoon yard."

Q: Did the Seaboard on May 4, 1966, supply supervisors to the Jacksonville Terminal Company to keep it running? A. I can't answer that. I don't know.

Mr. McAlliley: That's all. I have no further questions.

Mr. Grissett: You may be excused, Mr. Barrett.

[88] Mr. Adams: Your Honor, we call Mr. A. L. Scheick, who is in the hall out there, M. F. Scheick.

The Reporter: How do you spell his name, do you know?

Mr. Adams: S-c-h-e-i-c-k.

Your Honor, let me change my mind. I call Mr. Moore instead of Mr. Scheick.

Ask Mr. Scheick to wait outside.

A Voice: This isn't Mr. Scheick anyway. This is Mr. Thomas Bowman, General Chairman of the Conductors.

---

[89] Mr. Raymond C. Moore, having been first duly sworn, testified as follows:

Direct Examination by Mr. Adams:

Q. State your full name for the record. A. Raymond C. Moore.

Q. And what is your business or occupation, Mr. Moore? A. Deputy President.

Mr. Adams: Talk a little louder, so I can hear you.

A. Deputy President.

Q. Deputy President of what? A. The Brotherhood of Railroad Trainmen.

Q. All right, sir. And this is a national labor organization that is presently on strike against the Florida East Coast? A. Yes, sir.

Q. Now, Mr. Moore, prior to the picketing of the Jacksonville Terminal Company on May 4, 1966, how long had you been in town? A. In Jacksonville?

Q. Yes, sir. A. You mean for the present time?

Q. Yes, sir. Immediately prior to the picketing. A. Maybe a week.

Q. About a week? [90] A. I really can't say.

I have been in Jacksonville probably a majority of my time in the last three years.

Q. Where are you from? A. I am from Pittsburgh, Pennsylvania, Aliquippa, Pennsylvania.

The Reporter: From where?

The Witness: Aliquippa, Pennsylvania, A-l-i-q-u-i-p-p-a, Pennsylvania.

Q. Do you live in Jacksonville, Mr. Moore? A. No, sir.

Q. Do you own a home here? A. No, sir.

Q. Where do you stay when you are in Jacksonville? A. Well, I have stayed in four hotels—five or six hotels.

Q. I see. A. It depends on availability.

At the present time, I am staying at the George Washington.

Q. When you say you have spent most of your time in the last three years here, it is on business or pleasure—you are staying at the hotel, though? You haven't lived here? A. No.

[91] Q. Mr. Moore, prior to this picketing—let me ask you this question:

Let me ask you this question first:

What is your specific responsibility with respect to the picketing operations at Jacksonville Terminal Company? A. I am in charge of the Florida East Coast strike.

Q. You are in charge of the Florida East Coast strike? A. Representing the Brotherhood of Railroad Trainmen.

Q. Do you have anything to do with the placing of pickets on the picket line? A. Yes, sir.

Q. Did you personally go around and place them? A. Not necessarily personally, but I arranged it.

Q. You arranged for it? A. Yes, sir.

Q. All right, in connection with the picketing, which occurred on the early morning, during the early morning

hours of May 4, 1966, did you, personally, arrange for their appearance on the line at that time? A. No, sir, not personally.

Q. Who did? A. People in charge—our local officers.

Q. Who are your local officers? A. There are a number of them—committeemen.

Q. Would you give us their names? [92] A. Strike picket captains, that would be involved—probably every member we have.

Q. Do you give them orders? A. Yes, sir, I take the responsibility.

Q. You take the responsibility. You told them to be on the line, did you not? A. Well, either indirectly or directly.

Q. Did you have any meetings prior to this? A. Oh, yes, we have had meetings constantly.

Q. Do you know Mr. A. L. Groves, don't you, Mr. Moore? A. No, sir, not in the name.

Q. You don't know him by name? A. No, sir.

Q. Do you know him as the—do you know him as the General Chairman of the Brotherhood of Railroad Clerks? A. To clear up that point, I would assume that if he is General Chairman of the Railroad Clerks, he was invited to attend a meeting.

Now, you asked me if I knew these gentlemen by name—no, sir.

Q. Was he invited to attend a meeting? A. If he is in that capacity, I would say he was invited.

Q. Do you know Carl Wright? A. By name, no.

Q. Do you know—do you know whether the local [93] chairman of the Brotherhood of Railway Steamship Clerks was invited to attend your meetings? A. If he wasn't he should have been.

Q. (Laughter.)

All right. Whose names do you know of the local chairmen? A. I know Mr. Scheick.

Q. What organization is he with? A. He is with the Brotherhood of Railroad Trainmen. I know Mr. Jenkins, with the Brotherhood of Railroad Trainmen.

I know Mr. Smart. He is with the Brotherhood of Railroad Trainmen.

I know Mr. Boland, over here (indicating him). He is with the Conductors. I probably know each one of those gentlemen that you have mentioned, if I see them.

Q. I see.

It was your intention to invite these men to your meeting? A. It was my intention to invite representatives of all 21 labor organizations of the railroad industry.

Q. And is this where the plans were made for the actual picketing? A. No, sir. The only meetings we had in relationship to those gentlemen, is to advise them what we were going to do, and it was an informative meeting.

[94] Q. An informative meeting.

All right, sir, when were the meetings held? A. I think there were two meetings held prior to May 4th. I can't tell you the dates.

Q. Well, would it have been one or two days before? A. It could have well been. It could have been three or four days before.

Q. Could it have been within the week before? A. Oh, definitely.

Q. Somewhere within a week prior to the meeting? A. Oh, definitely. I am not trying to be evasive. I just don't know the date.

Q. I understand. A. If I did—if I had the minutes here, I would be glad to give you the information that you are asking.

Q. Who else was there besides these gentlemen? A. I would say in the neighborhood of 60 to 65 gentlemen. We took count, and I think that is what we came up with.

Q. Were these various labor representatives— A. I assume they were all various labor representatives.

Mr. McAlliley: All right, sir. May I see these pictures a minute?

(Examining photographs.)

By Mr. McAlliley:

[95] Q. Are you the same gentleman called Ray Moore? A. Maybe it is confusing. I sign my checks Ray Moore and I sign certain agreements Raymond Moore.

[96] *By the Court:*

Q. Is a Deputy President one person in the union, or may it be any person specially hired and authorized to do a particular task? A. What I do is, we have 16 elective positions as Vice Presidents. Then, I understand, I am the only one at the present time.

My duties would be exactly what the Vice President's job is, although I am not elected. I am appointed by the President of the Brotherhood of Railroad Trainmen.

By Mr. Milledge:

Q. You are a Grand Lodge officer? A. Yes, sir.

Q. Different ones are designated to different properties? A. Yes, sir. Our Vice Presidents have territories, and I am fortunate enough not to have a territory.

By Mr. McAlliley:

Q. You job is to handle the FEC strike. Is that right? A. Among several other railroads.

Q. What other railroads? A. The Milwaukee, the New England, the McKeesport connecting; the Aliquippa and Southern, the Indiana-Harvard Route. The New York Central. The Chicago Illinois Midland. The Delouth-*Missarbe*. I could go a few more.

[97] Q. Mr. Moore, don't you remember the Chairman of the Brotherhood of Railway Steamship Clerks being present at this meeting—the National Chairman? A. I wouldn't know whether he was the National Chairman or not. I can truthfully say that I probably didn't know either one of those gentlemen by name or by sight.

Q. But you know some of them by now, don't you? A. I would say I am now more acquainted with their Presidents than I would be with it.

Q. Now, Mr.—

Mr. Milledge: If I may just say something. Presidents are the international kids of organizations. The General Chairmen are the men elected of the particular system. In other words, the Florida East Coast system for the Brotherhood of Railroad Trainmen and General Chairmen, and then there are Local Chairmen, and then there are Grand Lodge officers, like Mr. Moore, and elected Vice Presidents and others, who are assigned to particular properties.

By Mr. McAlliley:

Q. Mr. Moore, you haven't been in contact with Mr. A. L. Groves today? A. I wouldn't know Mr. Groves by sight.

Q. Are you saying that you don't know whether you have been in contact with him or not? [98] A. No, I wouldn't say. I don't know the gentleman.

Q. You don't know him then at all, by name? A. No.

Q. You have had no contact with him? A. I read his name on a piece of paper up in your room, when I asked you what my name was doing on there.

Q. Have you talked with him on the telephone? A. No, sir.

Mr. Milledge: Now, then, let's get the record clear. I am not sure our phones are tapped or not, but I have talked to Mr. Groves and I have talked to Mr. Wright. Both of them, so, if they know that somebody from our office is talking to them it is a remarkable thing, indeed. I had Mr. Moore fly in this morning and I asked these other gentlemen to come and talk with me and the only communication with those men from our office, where they have been, is through me, and over the public telephone.

Mr. Towers: Didn't you ask us here today, who this fellow Moore was—who—Groves was? Didn't you ask me who Groves was?

Mr. Milledge: Yes, that was last night, so I could find him.

Mr. Towers: Your Honor, we would like Mr. Groves, [99] if opposing counsel knows where he is, we feel that his presence here, not only as a defendant, but if he is somewhere and his whereabouts is known by them, we would like to ask the Court's assistance in having him come to this courtroom.

The Court: What do you suggest that I do?

Mr. Towers: I suggest that you ask opposing counsel if he is hidden out, that he please be unhidden for the Court's information.

The Court: I know of no power that I have to move and act in the ways that you suggest. There are other ways that you can procure the attendance of people.

Mr. Towers: It is not very easy on Saturday afternoon, Your Honor.

Mr. McAlliley: We will be happy to put him on in rebuttal.

Mr. Towers: We would like to have him for our direct case, if we could.

Q. Do you know where Mr. Groves is? A. I don't even remember your name.

I don't know Mr. Groves from Adam. I haven't seen Mr. Groves, to my knowledge.

If we were in here, left Pittsburgh at 1:45, and got into Miami at 6:00 o'clock this morning. I left two grandchildren [100] there. On a plane at 8:00 o'clock, and I went to sleep in Alan Milledge's room until just before coming over here. As far as my knowledge of anything, it would be Mr. *Boland,* Alan Milledge, and Mr. McAlliley on the way to some library. Is that right? And I went to sleep, and that's all I can tell you.

I don't know the gentleman you are talking about. If I did, I would certainly be glad to say so.

Q. Has anyone asked you if you knew him, besides me? A. No, sir.

Q. Either Mr. McAlliley or Mr. Milledge? A. I read a piece of paper in his room, and I said, "What is my name on here?" And that's the first I hear about this at all.

The last time I seen any of these gentlemen was in Atlanta, Georgia and I went to Chicago.

Q. Okay, Mr. Moore. I ask you to examine these pictures, identified as Plaintiff's Exhibit No. 2, through 20. A. These are the pictures you had in June, in Judge McRay's court.

Q. Yes, it is. A. Now, you are asking me to identify the pictures?

Q. Just look through the pictures. Are you able to identify them? A. Oh, certainly.

[101] Q. Okay, I direct your attention to—let's take one of the pictures here, at random, Plaintiff's Exhibit No. 13.

I note on the picture that there is an area which is blotted out there—taped out. A. Yes, sir, deliberately.

Q. Do you know what is under that? A. Yes, sir.

Q. What is it? A. It was deliberately taped out because the printer made a—

Q. —what is under that? A. "Orcb—Brotherhood of Locomotive Firemen and Enginemen.

[102] Q. All right, Mr. Moore, does the Brotherhood of Railroad Trainmen have a—a labor agreement with the Jacksonville Terminal Company? A. Yes, sir.

Q. And is it true, Mr. Moore, that there is no dispute with the Jacksonville Terminal Company so far as the Brotherhood of Trainmen is concerned, under the agreement? A. When you say "dispute", to me—

Q. Is there any dispute for which you are striking the Jacksonville Terminal Company? A. No, sir.

Q. That is with Jacksonville Terminal Company, in dispute with Jacksonville Terminal Company?

Mr. McAlliley: —

A. (No response.)

Q. That is right, in any dispute with the Jacksonville Terminal Company for which you would strike Jacksonville Terminal Company? A. If there is a dispute, we are not in a position to strike.

I would like to qualify my answer.

Q. Go ahead. A. I want to clarify this question that has been asked me.

We use the word "dispute." It could be a time claim. [103] We could be in dispute.

It could be a Section 6 Notice. We are in dispute in some way or the other with every Railroad in the United States.

So, when you say to me—and I am not trying to be smart or anything else. "Dispute" to me would be docket a claim, we will say.

Q. Do you have any dispute with Jacksonville Terminal Company?

Does your union have any dispute with the Jacksonville Terminal Company, under its agreement for which you are picketing the Jacksonville Terminal Company? A. No, sir.

Mr. McAlliley: May I be excused for a moment? I have a message here.

The Court: Would you like this suspended?

Mr. McAlliley: No. Mr. Milledge can handle it.

By Mr. Adams:

Q. Mr. Moore, isn't the purpose of your picketing the Jacksonville Terminal Company to—isn't it the express purpose of picketing the Jacksonville Terminal Company

to require it to suspend furnishing any services to the Florida East Coast Railroad? A. We certainly appreciate it.

[104] Q. Isn't that the purpose of it? A. Yes, sir.

Q. You have no dispute with the Jacksonville Terminal Company, do you? A. That's right.

Q. All right, Mr. Moore, let's go back to these meetings. Where did the meetings take place? A. The George Washington Hotel.

Q. I am talking about the week next preceding the strike, or the picketing of the Jacksonville Terminal Company.

Mr. Milledge: That's what he said.

(Addressing counsel.)

Counsel: O. K., I am just making sure.
Mr. Milledge: I am sorry.

Q. The George Washington Hotel? A. May I say this. You are talking about meetings?

Q. Yes, sir. A. Now, I have met with the top—from the top down—presidents—RELA down to the rank and file.

Q. Have those meetings all taken place in Jacksonville, Florida? A. No, sir. At the George Washington Hotel.

Q. Those that took place in Jacksonville, Florida, [105] within the week next preceding the picketing that occurred on May 4, at Jacksonville Terminal Company? A. (Shaking head.)

Q. All right, at this time can you tell me how many meetings you had? A. Two meetings.

Q. Two meetings.

Was Mr. Boland present? A. Yes, sir.

Q. Which meeting was he present at? A. Both of them.

Q. All right. A. —to my knowledge.

Q. Did you actually see Mr. Boland there? A. I am sure he was there, yes.

Q. How long have you known Mr. Boland? A. I have been knowing Tom for three years, going on four.

Q. All right, who else was there that you remember? A. Mr. Hadley was invited. Mr. Jones was invited.

Q. All right, who was there? A. The non-op. representatives, in some capacity.

Q. By "non-op." you mean the non-operating railroad—the Brotherhoods? [106] A. In their official capacity. When you say "non-op." say there are eighteen men operating in the union.

Q. How were the invitations extended? A. Wrote them a letter and asked them to attend the meeting.

Q. Was this letter written under your direction? A. Yes, sir.

Q. So far as you know were the letters sent out to each non-operating Brotherhood? A. No, it was sent out to the individuals.

Q. Sent out to the individuals who represented that non-operating Brotherhood? A. Yes, sir.

Q. In Jacksonville on one of these railroads? A. That's right.

Q. Did you include the non-operating Brotherhoods representing the Coast Line? A. We included all the twenty-one unions, who hold contracts on the railroads in the United States that are in this locality, to attend that meeting.

Q. Does that include all of the railroads operating in the Jacksonville Terminal Company? A. That includes all of the twenty-one unions representatives we possibly knew, whether they had a contract, [107] or whether they did not, on the respective railroads.

Now, you have maybe one railroad who has a contract with the Engineers and vice versa—another railroad will have it with the Firemen's organization, for that same respective class or craft.

Q. Would that include the Brotherhood of Railway and Steamship Clerks? A. I would assume so.

Q. Well, now, do you know, or are you assuming? A. You asked me. I give the orders and other people carried out the mailing of the letters.

Q. Did you give an order for a letter to be mailed? A. To be mailed out to every local representative of the twenty-one unions, and that is one of them.

Q. That is one of them.

Is the Brotherhood of Maintenance of Way Employees one of them? A. Yes, sir, that's one.

Q. And the Brotherhood of Railroad Trainmen, I assume? A. Yes, sir.

Q. The American Railway Supervisors Association? A. A letter—I think that man was talked to directly and told not to come—told there was no need to come.

Q. All right. How about the Brotherhood of Railroad [108] Signalmen? A. I would assume that's so.

Q. How about the Transportation Communications Employees Union? A. I would assume so.

Q. The Brotherhood of Locomotive Engineers? A. I would assume so.

Q. Now, when you say "you assume so," this means that you have given orders for these people to be invited? A. That's right, whether they received it or not, I don't know. But it was intended they should.

Q. All right, sir, the Railroad Yardmasters of America? A. Yes, sir.

Q. The System Federation No. 50? A. That is a foreign one to me. I don't know.

Q. All right, Brotherhood of Railway Carmen of America? A. Yes, sir.

Q. And the Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Helpers and Forgers? A. Yes, sir.

Q. The International Association of Machinists? A. Yes, sir, that's part of the twenty-one.

Q. The Sheetmetal Workers International? [109] A. Yes, sir.

Q. The International Brotherhood of Electrical Workers? A. Yes, sir.

Q. They received a letter? A. I wouldn't know if they are part of the twenty-one railroad organizations—yes. I can't identify them all by name. You are asking names, I can't identify them all by name.

Q. How about the IBEW? A. To my knowledge, I would say they are not one of the twenty-one, as I recognize.

Mr. Adams: What?

Mr. Milledge: I say they are. IBEW is one of the eleven non-ops. on strike here.

Excuse me, can I inject myself here. It is one of the eleven non-ops. on strike here against the Florida East Coast.

Mr. Adams: They were invited to this meeting?

Mr. Milledge: They were intended to be invited, sure.

The Witness: It was our intention, yes, that category.

Q. How about the Brotherhood of Firemen and Oilers? [110] A. Yes.

Q. All right, now, do you know the local chairman, head of any of these organizations? A. I would say some. When you say "local chairman," respective organizations use different titles.

Some use presidents, where we use a general chairman, some other local uses a president.

Q. Would you say the local representative, the highest local representative? A. It was our intention to invite him, as well as his subordinates.

Q. I see. A. If he is a local chairman, he has two committeemen. It was our intention to invite him. All three of them.

Q. You mentioned Hadley. What is Hadley's first name? A. John or Jack. I call him "Jack."

Q. All right, sir, what is his position? A. I don't know what his position is. I know him as one time chairman of the eleven cooperative strike committee. That's the title I know him by. He no longer has that title, I understand.

Q. Is that in connection with the 1963 non-operating strike against the Florida East Coast? A. Yes, sir.

[111] Q. Was he at any of those meetings? A. Yes, sir, he was invited.

Q. Was he at both of the meetings? A. He was at one that I remember and could possibly have been at both. I am sure he wasn't the last one.

Q. You are sure he was? A. I wouldn't say. I am not positive.

Q. Was he at any of the meetings? A. He was definitely at the first one.

Q. How far apart were these meetings held? How many days apart? A. I would say within five days or a week. No.

Mr. Milledge: Do you want the exact dates? Since I was there, I know, and I know them in relation to other events.

The first one was held a day or two before April 24, which was the day these organizations went on strike.

The other one was held a day or two before May 4, which was the day that the picketing commenced around the Jacksonville Terminal Company.

So, that would be approximately ten days apart.

[112] Mr. Adams: O. K.

Q. Do you recall that these were the approximate dates? A. I would say now that it is mentioned, it has refreshed my memory—if I had my notes here, I would be glad to give it to you. But I am sure those are positive dates.

Q. All right, do you recall that Mr. Boland was at both of those meetings?

The Witness: Were you there, Tom?

Q. Mr. Moore, I am going to have to insist that you answer these questions. A. I thought I answered that question before.

I said to my knowledge, he was there. I thought it was in doubt, and I thought Mr. Boland was the best man to clarify it.

Q. You just give me the answers to the best of your knowledge and we will go from there. A. All right, sir.

Q. How about Mr. *Shipe*? A. Yes, sir.

Q. Was he at both of them? A. Yes, sir.

Q. Was Mr. Jenkins at both of them? A. Yes, sir.

Q. What was Mr. Jenkins' first name? [113] A. Neal.

Q. Neal Jenkins? A. (Shaking head.)

Q. All right, sir, was Mr. *Smart* at both meetings? A. I know he was at one and I couldn't say positively that he was at the second one.

Q. All right, were both of these meetings held at the George Washington? A. Yes, sir.

Q. And these were the only two meetings within this period of ten days that you attended? A. I believe it was. I think—

Mr. Adams: I think that's all.

Cross Examination by Mr. Milledge:

Q. Mr. Moore, was the picketing around the Jacksonville Terminal Company, was that addressed to the ownership of the company, or was it addressed to the employees? A. Addressed to the employees, namely to the Brotherhood of Railroad Trainmen.

Q. Mr. Moore, in the event that these railroads, that is the Jacksonville Terminal, the Seaboard, A. C. L., and [114] the A. C. L. do what they did in 1963, and refused to permit the F. E. C. onto the Terminal Company property, would the pickets then be removed from around the premises?

Mr. Adams: I object to the question as stating facts not in evidence.

There is no showing that Mr. Moore knows what happened back in 1963.

The Court: Read me back the question, please.

(Addressing the Reporter.)

(The question was read.)

The Court: I think you would need some predicate to establish if he knew what happened in 1963.

Mr. Milledge: I will revise the question.

By Mr. Milledge:

Q. Mr. Moore, if there were no F. E. C. movements and no interchange of traffic between F. E. C. and other railroads on the premises of the Jacksonville Terminal, would the pickets be removed? A. Yes, sir.

Q. Is the purpose of the picketing to prevent interchange between the F. E. C. and other rail carriers? A. Yes, sir.

Mr. Milledge: That's all.

By Mr. Milledge:

[115] Q. I have one other question. May I ask one?

The Court: Yes.

Q. Is it standard in the railroad industry to advise the officials of other labor organizations, when one organization plans to take strike action?

Mr. Adams: I object to that as being irrelevant and immaterial.

The Court: Objection overruled.

A. Yes, sir.

Q. Is that what was done at the two meetings at the George Washington Hotel about which you have just finished testifying? A. It was a one minute meeting.

Q. Did you give any orders to other railroad organizations, or their representatives? A. No, sir.

Q. Do you have the power to do that? A. No, sir.

Q. Were your attorneys present at those meetings? A. Attorneys were present at both meetings.

Mr. Adams: Is that all?

Mr. Milledge: (Shaking head in the affirmative.)

Redirect Examination [116] *by Mr. Adams*:

Q. Mr. Moore, as a matter of fact, weren't you in constant contact with these local people that you have named? A. No, sir.

Q. You didn't have any conversation with them at all, except at the meeting? A. I may have had conversation with individuals.

Q. That's who I am talking about, not necessarily groups, but individuals? A. It would be no more than five people.

Q. You did, but there were instances, other than at those meetings that you were talking with these individual local people? A. I would say not in relationship to our activity as a fraternal member or something like that, on other matters, yes.

Q. Is it your testimony that you all didn't, at these instances when you did talk to them, you didn't talk about the impending strike or the picketing which you were about to begin? You didn't discuss it? A. When you are talking about the Florida East Coast Strike.

Q. No, I am talking about the picketing. A. No, sir.

Q. You didn't discuss the picketing which you were [117] about to start? A. No, sir.

Q. Who were the five people that you met? A. I can only give you an estimate—an honest answer, I can't.

Q. Do you recall any conversations that you had? A. I talked to Neal Jenkins with Mr. Jordan as his chairman, in relationship to social insurance, and some matter on the Atlantic Coast Line.

I talked to Mr. Hayes, with Mr. Smart, in his presence, about matters related to the Seaboard.

We talked about matters relating to the Seaboard. My profession, I presume is like yours, we talk about many problems.

I had occasion to be in Miami in several weeks ago on health and welfare. I am on the health and welfare committee. I probably talked to a number of local chairmen that were invited down there to a meeting, but it was not in relationship to the Florida East Coast Railroad, but to health and welfare.

Q. It is your testimony that other than at these two meetings you had no discussions whether individually or in groups, with any of the local chairmen down here of the non-ops? A. With relationship—

Q. With relationship to the picketing which was to begin? [118] A. None whatsoever.

Q. All right, Mr. Moore, isn't it a fact that the purpose of your picketing the Jacksonville Terminal Company is to get them to embargo the F. E. C. traffic? Isn't that true? A. I would not say that was the purpose. It was a purpose of common cause that originated out of the Port Everglades case, and we took advantage of that situation, and as we understood our legal rights, and from that we sat down and discussed it with our attorneys and all concerned and the chiefs of all of the organizations, par-

ticularly my organization. I discussed it with my president repeatedly, and that was the outcome of the picket line on the 4th, May 4th, and it was our purpose to seek common cause with the employees whom we represent and the class and craft of the organizations I am privileged to be a member of.

Q. I understand that, Mr. Moore, but isn't what you really—what you were really trying to get the Terminal Company employees to do is to place an embargo against the F. E. C., and not handle their stuff? A. No, because I am fully aware of Judge McRae's order. I would appreciate if the Atlantic Coast Line and Seaboard would seek to get that lifted.

My understanding was that Judge McRae has an order that mandates the company to do that.

[119] Q. What is the common cause— A. The common cause?

Q. What is the common cause that you are talking about? A. The common cause is to advise the people and the members of our organizations of the class and craft that we represent that we were to strike the Florida East Coast Railroad and to assist us in any way, manner, shape and form that they could.

Q. I see.

All right, Mr. Moore, what is your definition of embargo? You have been in the railroad business. A. When an embargo happens, my definition of an embargo in my experience would be more so in the east, related to the steel strike, and what have you.

When there is a forthcoming strike in the steel industry, the railroads placed an embargo, or the company places an embargo on the shipment of steel, because of demurrage

charges. They are obligated to pay for it, per diem and demurrage.

Q. All right, isn't that what you wanted the railroads to do, is to embargo the— A.—as I said before, it certainly would be appreciated if it was not.

Q. Isn't this one of the ways in which you hoped that [120] they would join you in the common cause? A. To answer your question, I would presume that you are talking about my discussion with Mr. Mervin, and Mr. Shelton, who is now representative of the two respective railroads, and they asked me how we could resolve this thing to a mutual interest, and what have you, and I forthwith said to them: "If there is no handling of the Florida East Coast cars, and the best way to do that would be to place an embargo on it," and they know better than I, and the attorneys for the Florida East Coast and the Atlantic Coast Line, and the Seaboard, is well acquainted with it, because one of the attorneys was present when we were discussing it.

Q. If they stop handling F. E. C. cars, you will take down the picket lines; is that right? A. There would be no purpose of putting the picket lines up.

Q. O.K. A. They are for the same purpose, if I may say this, was up to your supervisors the morning of the strike—the supervisors that were present, if they had any trains moving that didn't have any F. E. C. cars on it, to tell the conductors to come up to me, and we would pull down the picket lines when that train moved.

Q. Mr. Moore, just so we can get clear, it is your [121] testimony, as I understand it now, that you will pull down the picket lines if the Coast Line and the Seaboard and the Terminal Company quit handling F. E. C. cars; is that right? A. Yes. I would say yes.

Q. Mr. Moore, are you all presently picketing other properties or properties of the Florida East Coast? A. Certainly. It is a daily occurrence.

Q. Don't they have extensive properties down in St. Augustine? A. Who?

Q. The Florida East Coast? A. Extensive properties?

Q. Yes. A. I understand they have a general office there, if that's what you are driving at.

Q. Are you all picketing that? A. No, we are not picketing the general offices, to my knowledge.

Q. What other places of the Florida East Coast are you picketing? A. Picketing interchange points, such as the Port Everglades Terminal Railroad in Miami, New Smyrna, Bowden Yards, Lake Harbor, Palm Beach.

[122] Q. Lake Harbor? A. Lake Harbor, and Palm Beach.

Q. Are these all on F. E. C. lines? A. To my knowledge, they are.

Recross Examination by Mr. Milledge:

Q. Is the Brotherhood of Railroad Trainmen picketing all interchange points of the F. E. C. and other railroads? A. Yes.

Q. And, are those pickets addressed to the employees—speaking of other locations, other than Jacksonville, are they addressed to the employees of other railroads, not to handle F. E. C. interchange? A. (No response.)

Q. In other words, are pickets addressed to Seaboard and Port Authority personnel and so forth, at other locations? A. Yes.

Q. Does the Brotherhood of Railroad Trainmen presently have outstanding any other injunction against it, other than the one recently suspended? A. No, sir.

Q. Has any other court action been instituted in 1966? A. No, sir.

Q. Are Seaboard, A. C. L., or Port Authority personnel [123] going through those picket lines at other locations? A. No, sir.

Mr. Milledge: That's all.

Redirect Examination by Mr. Adams:

Q. Do the A. C. L.-Seaboard people have any occasion to go through the picket lines at the other places? A. I can't answer that.

Q. Well, how do you know they are not going through? A. I am informed by the people up and down the line.

Q. You don't have any personal knowledge of it, do you? A. I couldn't possibly cover this railroad from one end to the other.

Q. I kind of got the idea that you knew the answer a few seconds ago. A. I know only from conversations and telephone and daily contact with them.

Q. So, you don't know whether they are going through or not? A. From personal observation, no.

Q. And you don't know whether they have any occasion to go through it or not, do you? [124] A. I couldn't swear to it, no.

Q. Mr. Moore—that's all.

Recross Examination by Mr. McAlliley:

Q. Let me ask Mr. Moore one question:

Was there any attorney with you on the morning of May 4, 1966, in placing those pickets? A. Yes, sir.

Q. Who? A. Mr. Tom McAlliley.

Mr. McAlliley: That's all.

Mr. Adams: Call Mr. Scheich.

The Court: Suppose we take about a ten-minute break.

(Discussion off record.)

(Ten-minute recess.)

---

[125] Mr. Louis F. Scheich, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Adams:

Q. Please state your full name, for the record. A. Louis S. Scheich (spelling) S-c-h-e-i-c-h.

The Reporter: L-e-w-i-s?

The Witness: L-o-u-i-s.

The Court: The middle initial was—

The Witness: F.

By Mr. Adams:

Q. What is your business or occupation, Mr. Scheich? A. I am yard conductor for the Jacksonville Terminal Company.

Q. All right, sir, are you a member of any railway labor organization? A. I am a member of the Brotherhood of Railroad Trainmen.

Q. Do you hold any position with that organization? A. I am General Chairman in the Brotherhood of Railroad Trainmen on the Jacksonville Terminal property.

Q. All right, sir, do you know Mr. Moore over here (indicating)? A. Yes, sir, I do.

[126]. Q. All right, do you know Mr. A. L. Groves? A. I have met Mr. Groves.

Q. Do you know him by sight? A. Yes, sir, I do.

Q. Do you know Mr. C. H. Wright? A. Yes, sir, I do.

Q. Do you know him by sight? A. Yes, sir.

Q. O.K., now, Mr. Scheich, I believe that you attended the two meetings which were held in the George Washington Hotel, one the latter part of April, and one the first part of May of 1966, preceding the picketing of the Jacksonville Terminal Company. Is that correct? A. Yes, sir, I did.

Q. Was Mr. Groves there? A. I saw him at one of the meetings. I wouldn't swear on the other one. I am not sure.

Q. Was Mr. Wright at either one of them? A. Yes, sir, Mr. Wright was at one of them, and possibly both of them. I am not sure.

Mr. Adams: That's all.

Mr. McAlliley: Is that all you have?

Mr. Adams: Yes, sir.

[127] Mr. Adams: Call Morris Altman.

MORRIS ALTMAN, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Adams:

Q. Please state your full name. A. Morris Rudolph Altman.

The Court: How do you spell your last name, please?

The Witness: A-l-t-m-a-n.

Q. What is your business or occupation? A. Clerk, mail and bag department.

Q. By whom are you employed? A. You mean the department head?

Q. No, the company? A. The Jacksonville Terminal Company.

Q. How long have you been working at the Jacksonville Terminal Company? A. Four years.

Q. Are you a member of a railroad labor organization? A. Yes, sir.

Q. What is the name of it? [128] A. Brotherhood of Railway Clerks.

Q. Now, are you familiar with the picketing that occurred at the premises of the Jacksonville Terminal Company on the morning of May 4, 1966? A. I am.

Q. Were you supposed to work that morning? A. Yes, sir.

Q. Did you work that morning? A. No, sir.

Q. Did you report to work? A. I came down.

Q. All right. Would you tell the Court what time you did come? A. 7:45.

Q. All right, what did you observe when you came to the property at 7:45? A. Well, I came down at 7:45, and I parked inside and the ramp leading to the parking lot spot was across the picket lines, with the pickets standing on the ramp, so I then parked across the street in the Terminal Company parking lot.

Q. All right, go ahead and tell the Court what happened next? A. I got out of my car, walked to the corner of Bay [129] and Johnson Streets, where Mr. Groves met me right on the corner.

Q. Now, who is Mr. Groves? A. Mr. Groves is the general chairman of the Brotherhood of Railway Clerks.

Mr. Milledge: I object on the ground it is hearsay.

Mr. Adams: No, Mr. Groves is a efendant, and he is the defendant in here, and we feel that we have connected him up with the BRT sufficiently.

The Court: He is a defendant, but he hasn't been served.

Mr. Towers: It is kind of hard to serve him when you don't know where he is, Your Honor.

Remember that this is the type of hearing. I know how Your Honor feels about giving notice, but this is the type of hearing that we are entitled to relief without notice, because of the emergency nature of it. Unless Your Honor feels like we have had an opportunity and have failed to give notice in this case.

I know it is discretionary with the Court, as to whether or not we could adduce this testimony without having served him, but, I [130] believe we are entitled to bring this testimony to the Court under the circumstances in this instance.

Mr. Milledge: I think the only reason they have added these two men as defendants, is so they can violate the hearsay rule.

This is an incident which occurred May 4th, and this complaint has been filed a week now, and it just seems to me that this is just an attempt to inject hearsay into this record.

Mr. Adams: Your Honor, aside from that, Mr. Morris testified that we have had two meetings. He met down here and invited all of the brotherhoods, the heads of the local brotherhoods to come.

Then we have testimony that both Mr. Groves and Mr. Wright were there.

We have testimony from Mr. Moore saying that the purpose of the picketing and their signs is to join a common cause, and the common cause is to assist them in any manner in which they could, and these meetings were held for the purpose of informing them about the strike. I think this certainly becomes within the range [131] of permissible testimony.

Mr. Towers: Let me make this further observation, too, Your Honor. As Your Honor knows, we don't know where he is. They say they will produce him in rebuttal. There is no way we can call him and say, "Look here, you are a defendant in a lawsuit, as of yesterday. The Sheriff's office is closed and you are not served, but you had better be here because there is testimony going on that concerns you."

We can't do that. We don't know where the man is.

If we did, that might make a difference. I don't concede that it would, but I think because of the emergency nature of this type of a hearing, and the fact that under the circumstances, that I feel like we have proved here, that we would be entitled to relief, even if nobody was here on the other side.

Mr. Milledge: And they haven't made, certainly in a case of agency, which would make us bound by anything Mr. Groves or Mr. Wright may say. It is their own brotherhood, and we informed them of what we intended to do, but there is certainly no case of agency made here to bind [132] them with anything, with what they do, much less what they say.

Mr. Adams: With respect to the agency, their own testimony is that they are seeking to reach our employees, getting our own employees to help them.

I think they are going to have to take the responsibility for the help that they seek to get.

The Court: What I shall do is to permit the testimony to be adduced and reserve ruling with the possibility that the testimony in the nature that it is objected to as being hearsay, may be stricken at a later time.

I am conscious of the fact that the witness is being asked to relate what a person who is a named defendant said. That named defendant has not been served as yet, and may still be served.

So, with the understanding that the testimony may be stricken or it may be considered only with respect to whether a temporary restraining order will be entered against A. L. Groves and not considered with respect to whether a temporary injunction will [133] be issued against the other defendants, will be allowed to come in.

Just so there will be no misunderstanding, you said the Sheriff's office is closed, so you cannot get service on anybody. That part of the Sheriff's office that consists of the County Road Patrol has not closed, and if you will call 355-2811, you can get any service that you want made by a member of the Duval County Road Patrol, who is a deputy sheriff, twenty-four hours a day.

Mr. McAlliley: What is that number, Your Honor? I may want to use that, too.

The Court: 355-2811.

Mr. McAlliley: Thank you.

Mr. Adams: Your Honor, it is my understanding that you will permit him to answer the question, and any argument as to the hearsay will come later?

The Court: He will be permitted to answer the question and the rulings as to whether it will be stricken entirely, and as to whether it will be considered against any other defendant than A. L. Groves, will come later.

[134] Mr. Adams: Mr. Jones, what was my last question?

The Court: What did Mr. Groves say?

By Mr. Adams:

Q. What did Mr. Groves say to you? A. He met me right on the corner of Johnson and Bay Streets and said, "Well, you see what is going on," and I asked him was his Brotherhood recognizing the strike.

Q. What Brotherhood were you talking about? A. Ours, the Brotherhood of Railway Clerks.

He said, "Yes," and went on to tell me if I crossed the picket lines, that I would subject myself to personal harm, and also property damage.

Q. All right, did you observe Mr. Groves out there later that morning? A. Yes, I did.

Q. Did you hear him make any similar statement to anyone else? A. Yes, he talked to Mr. Kenneth Buchanan.

Mr. Buchanan asked him out, and he asked him what happened if he crossed the picket line.

Q. Did you hear this? A. I heard it.

He said, "Well, you will subject yourself and your family to personal harm, and also property damage to your car, [135] for instance."

Mr. Adams: That's all.

Cross Examination by Mr. McAlliley:

Q. Is Mr. Groves connected with the Brotherhood of Railroad Trainmen or Order of Railway Conductors and Brakemen, or Brotherhood of Locomotive Firemen and Enginemen?

Mr. Adams: I object to that unless he is asked of his own personal knowledge.

Q. Who is he connected with? A. The Brotherhood of Railway Clerks.

Q. All right.

Now, did you see anybody hit out there? A. No, sir.

Q. Did you see any cars broken up out there? A. No, sir.

Q. Did you see anybody curse out there? A. No, sir.

Q. Did you see any untoward incident on May 4, 1966? A. No, sir, I didn't see any at all.

Q. All right, did you see any police cars? A. There were police on the streets.

Q. There wasn't any problem out there, was there? [136] A. (No response.)

Q. Insofar as violence? A. No, sir, but I have known of it.

Q. When? A. At the bus strike several years ago.

Q. Oh, I see.

Let's talk about our strike.

Was there any violence in connection with that that you know of? A. None that I know of.

Q. Now, who is your supervisor in the mail and baggage department? A. Mr. G. G. Jones.

Q. Is he present here? A. Yes, he is.

Q. Who is he?

Would you point him out to me, please, sir? A. I am sorry, he is not in the courtroom here.

Q. But, he is here in the Courthouse? A. Yes, sir.

Q. Now, has Mr. Jones been going around to various employees of the Terminal Company in the last several days, looking for people, insofar as their instructions are concerned, about the picket line? [137] A. Not to my knowledge.

Q. Well, how did he find you? A. I just give it to him on my own accord.

Q. You went in to see him and tell him about it? A. Yes, sir. I work in his office.

Q. Oh, I see. You work in Mr. Jones' office? A. Yes, sir, I do.

Q. And, what is his capacity? A. General Mail and Baggage Agent.

Q. And what is your job for Mr. Jones, sir? A. Clerk.

Q. Is there anybody else working in his office? A. Yes, sir.

Q. Who is that? A. Mr. Stevenson.

Q. All right, where does Mr. Kenneth Buchanan work? A. In the Stores Department.

Q. Now, when you came up on the morning of May 4, 1966, at about 7:30, you saw a picket line and didn't cross it; is that correct? A. That's correct.

Q. That was a decision you made, yourself? A. I conferred with Mr. Groves first.

Q. Well, wait a minute, now.

[138] Where do you normally park when you go to work? A. Inside.

Q. All right, did you park inside that morning? A. No, I didn't. The man was standing on the driveway.

Q. With what? A. Standing with what?

Q. Yes.

Did he have anything on? A. He had a picket on.

Q. All right, why didn't you go on inside? A. I didn't want to run over him.

Q. Did you ask him to move? A. Did I?

Q. Did you? A. No, I didn't.

Q. Did you say anything to him? A. It was a short driveway. I was blocking the traffic.

Q. Did you say anything to him? A. I didn't converse with him at all.

Q. So, and, on this driveway, how many pickets were there? A. One.

Q. All right, now, is this down towards the intersection of Bay Street right near that viaduct down here?

[139] I am trying to locate the driveway. A. You mean the driveway?

Q. Yes. A. No, sir, it is right adjacent to the old baggage room.

Q. I see. Is that near the place where they park semi trucks and trailers? A. No, sir.

Q. Referring to exhibits in evidence, you can perhaps find a picture of Bay Street.

Mr. McAlliley: I think that's it.

Q. Is that near where you go to work? A. Yes, sir.

It doesn't show the driveway, I don't believe.

Q. Sir? A. It doesn't show the driveway, I don't believe.

Q. All right, sir, this is Plaintiff's Exhibit 16 and that is the old—what do you call it? A. I said the old baggage room.

[140] Q. And which way facing and looking at that picture, would the driveway be? To your right? A. Yes, sir.

Q. All right, now, there was one picket at that location? A. Yes, sir.

Q. And was this picket moving at all? A. He was mulling around. He was taking one step one way and one the other. He wasn't moving any distance down.

Q. All right, did you know if anyone asked him to get out of the way? A. No, I don't.

Q. Did you see anybody complaining to the police about the way he was picketing? A. No, sir.

Q. Now, did Mr. Groves or any official of your union, sir, the Brotherhood of Railway Clerks, call you the night before to tell you about this? A. No, sir.

Q. And the first knowledge you had of it was a picket sign you saw on an individual in a driveway that you normally use to come to work? A. That's correct.

Q. Sir? A. That's correct.

[141] Q. Sir, do you, as a railroad employee desire to assist the Florida East Coast Railroad in its dispute with its own employees?

Mr. Adams: I object to that as being irrelevant and in cross of anything brought out on direct.

Mr. McAlliley: In view of the nature of this witness and the attempt of these plaintiffs, Your Honor, to somehow bring themselves in, I certainly don't think for one minute they do or will. But in a State cause of action and this type of hearsay testimony, I would respectfully request that I have some latitude with him.

The Court: I don't think that there is any question of it on cross examination.

Mr. McAlliley: I would agree with that, Your Honor.

The Court: It might be on direct.

Like the other one, I don't know that you could get much mileage out of the objection. You can call him later, I suppose, but, I shall sustain the objection, if it is made.

By Mr. McAlliley:

Q. Now, you say you went to Mr. Jones, whose offices you work in, and volunteered this information and told him about it? A. Yes, I volunteered it.

[142] Q. When did you tell him about it, on May the fifth, the minute you could get to him? A. No, I didn't go right to him and tell him—just in common conversation.

Q. When did this common conversation come up? A. I would say Thursday, the fifth.

Q. Thursday the fifth. And, after you had this common conversation, did you have any conversations with anybody subsequent to that, sir, about this common conversation you claim to have had with Mr. Groves? A. Did I have a conversation with whom?

Q. After May fifth and the talk that you had with your boss, Mr. Jones, who was the next individual who discussed the subject of this conversation with you?

Mr. Adams: What was the question?

The Reporter: (The question was read.)

A. I will have to think about it just a moment. You mean the next individual, no matter who it was?

Q. I am particularly interested in bosses and lawyers. Would you please tell me in that category, who was the next person you discussed the matter with? A. Mr. Adams.

Q. All right, sir, and when was that? A. Yesterday.

Q. Oh, I see.

[143] Can you tell me approximately what time it was in the afternoon? A. I would say 3:00 o'clock roughly.

Q. All right, sir, prior to the time you had this conversation with Mr.—what is that fellow's name—that—

Counsel: Mr. Groves.

Q. —Mr. Groves on May 4th, 1966, had you had discussion with him at any previous time concerning any dispute at FEC? A. No, sir.

Q. Mr. Wright? A. No, sir.

Q. And, did Mr. Wright—did you have any discussion with Mr. Wright on the morning of May 4, 1966? A. Yes, I saw Mr. Wright after I talked to Mr. Groves, but he didn't say anything different than what Mr. Groves had said.

Q. Did he tell you the same thing? A. Yes, sir.

Q. Was anyone else present when he told you that? A. Only Mr. Groves.

Q. Was any member of the Brotherhood of Railroad Trainmen or the Conductors Union or the Firemens Union present there? A. No, sir.

Mr. McAlliley: That's all we have, Your Honor.

[144] Mr. Adams: We don't have any further questions.

Recross Examination by Mr. McAlliley:

Q. In this conversation with Mr. Jones, did you ask Mr. Jones, or did the subject come up as to what you were to do if the management contacted you about reporting to work? A. No, sir, he didn't.

Q. This was just a question of you asking him what to do now, and him telling you? A. That's right.

Q. And he told you not to cross the picket line? A. That's correct.

Q. And, on any previous occasion at the Jacksonville Terminal Company, sir, have you had any occasion to decline to cross the picket lines set up by a railroad union? A. No, sir.

Q. During the strike of the Brotherhood of Locomotive Firemen and Enginemen, four to six weeks prior to this time, did you have occasion to see a picket at the place where you reported to work? A. Yes, I did see a picket there.

Q. Did you cross and go to work? A. Yes, I did. The pickets were not up at the ramp. I didn't see them until I was already on the job.

[145] Q. If you had seen them before you had already got on the job, what would you have done? A. That would have been hard to say.

Q. Would you go call Mr. Groves? A. I don't know.

Mr. McAlliley: That's all I have, Your Honor.

Mr. Adams: We don't have any further questions.

Mr. Adams: Call Cecil Batten.

Mr. Cecil W. Batten, having been first duly sworn, testified as follows:

Direct Examination by Mr. Adams:

Q. State your full name, please? A. Cecil W. Batten.

Q. What is your business or occupation, Mr. Batten?

A. Superintendent of Transportation for the Jacksonville Terminal Company.

Q. What classification of employees are in your department? A. I have clerks, yard masters, engineers, firemen, switchmen, telegraph operators—four men.

Q. Approximately how many employees do you have? A. 174.

[146] Q. Now, Mr. Batten, do you recall—before I get to that question—

Have you come at my request, recently made an investigation to determine how many man hours were performed in your department for the month of March, 1966? A. Yes, sir, I have.

Q. Do you recall how many? A. In round figures twenty-nine thousand.

For the month of March and the payroll was in round figures, ninety-one thousand dollars.

Q. All right, sir, now, do you recall the picketing that occurred on the premises of the Jacksonville Terminal Company on May 4th, 1966? A. Yes, sir.

Q. All right, sir, what was the effect on your department as a result of the picketing? A. The employees in my department did not cross the picket lines, and, subsequently, after the hours of service law became effective, which pertains to powermen, the trainmen, the enginemen and the telegraph operator, we were coming to a standstill.

Q. All right, sir, what functions are performed in your department? A. It is the movement and switching of trains and cars on the Jacksonville Terminal.

[147] Also, we provide in the entire service, the route to and fro the various yards of our owner lines.

Q. All right, sir, what function—what function—what function do these towers play with respect to the handling

of freight through the Jacksonville Terminal Company? A. It is vital to the movement of freight traffic through Jacksonville.

Q. Well, what I am getting at, are the routes determined by these towers? A. That's correct.

Q. Is it necessary for these towers to be operated in order to get the trains through the Terminal yard? A. That is correct, because of the interlocking plant.

Q. In the interlocking plant can the switches be thrown by hand? A. No, sir, they can not.

Q. How are they thrown? A. They are from levers operated within the three interlocking towers of the Terminal Company.

Q. All right, what is the effect on the entire operation of the Jacksonville Terminal Company, if your department, the Transportation Department, is unable to function? A. Well, regardless of the function of anyone else, of any other department, we cannot switch trains. We can't [148] move trains, and in addition, the yard engines and the trains of our owner lines, they just simply would not operate.

Mr. Adams: I think that's all.

[149] *Cross Examination by Mr. McAlliley*:

Q. Mr. Batten, I have a very few questions.

Isn't it a fact, since May 4th, 1966, you have been training men in order to operate those towers, in case of a resumption of picketing? A. I have not, no, sir.

Q. Have they been trained? A. The amount of training—they have visited our towers. I can't say what they have.

Q. Let's talk about what you know about them.

Have men from other railroads been visiting your towers? A. Yes, sir, they have.

Q. The Atlantic Coast Line Railroad? A. Yes, sir.

Q. The Florida East Coast? A. Yes, sir.

Q. The Seaboard Railroad? A. Yes, sir.

Q. The Southern Railroad? A. That's right.

Q. For the purpose of learning how to operate these interlocking towers, with the resumption of picketing? A. That's what they say.

[150] Q. So that you can operate the towers and throw the switches? A. It would be a matter of opinion whether they could or not, because, frankly, I don't know whether they can or not.

Q. Frankly, that's kind of the idea of having them up there since May 4th, 1966, is in order to teach them, isn't that correct? A. It would be hopeful, yes, sir.

Q. Now, they do have interlocking towers and this type of signal and traffic control at the other locations on other railroads, do they not? A. I am sure they do.

Q. On the Coastline? A. I don't know.

Q. Well, this is a common method of terminal operation, and in fact some railroad yard operations, is it not? A. I wouldn't know.

Q. Now, also, can you give me an estimation of how many supervisors—how many supervising personnel of other railroads have visited these towers since May 4th, 1966, in order to hopefully, as you say, learn the operation? A. Except for the men from the signal department of the several railroads, that all that I know of thats been in the towers.

[151] Q. Can you tell me the number of men that is involved there, sir? A. I believe there are 12.

Q. And, can you tell the Court the purpose of bringing these men and putting them in these towers, is or it is not, to try to operate the Jacksonville Terminal? A. That's correct.

Q. All right, sir, and if they have a resumption of picketing, to your knowledge, you fully intend to operate the terminal to the best of your ability? A. That's correct.

Q. All right. Now, in the Terminal Company operation, do you have an hour's of service law? A. Yes, sir.

Q. As opposed to the operating craft, which is a 16-hour law, you have a 12-hour law; is that correct? A. That's correct.

Q. Now, in a case of emergency, you can work these men 12 hours? A. Only three days a week.

Q. Only three days a week? A. Yes, sir.

Q. All right, sir, you have three interlocking towers there? A. That's correct.

[152] Q. And each tower has three men to a twenty-four period? A. The Lee Street tower has three men to cover the 24-hour period.

The Bever Street tower has three men to cover a 24-hour period.

The Myrtle Avenue tower has three men on the first shift, three on the second and three on the third.

Q. So, the Myrtle Avenue tower in terms of personnel demands obviously the largest? A. Correct.

Q. All right, now, for FEC to come across the St. Johns River bridge and interchange in YH or honeymoon yard, does some man in the tower have to throw a switch? A. That's correct.

Q. And the common track there is track 31, is it not? A. That's correct.

Q. And to get off the St. Johns River bridge on track 31 into YH and honeymoon yard, to your knowledge, is all that is involved, are two or three switches? A. I couldn't say how many switches. They are interlocking switches.

Q. I understand that, but, in terms of the switching points themselves, that we are talking about, there are two or three switching points up until the point you get into YH, or honeymoon yards? [153] A. I don't really understand your questions.

Q. Maybe I don't really know your language. But, in terms of—from the time you leave the St. Johns River bridge until you say you get into YH yard, how many switches have to be thrown to get into YH yard? A. I couldn't tell you.

Q. Now, also, sir, do you know whether during the picketing on May 4, 1966, certain men were retained inside the premises of the Terminal Company? A. They were.

Q. Were certain men retained against their will? A. At the premises of the Terminal Company? Not to my knowledge.

Q. Were certain men retained over a period of 16 hours inside the premises of the Terminal Company? A. I really couldn't say that.

Q. All right, now, since May 4, 1966, are you making arrangements for sleeping facilities inside the Terminal Company? A. Sleeping facilities can't be provided.

Q. All right, sir, something that you have considered, sir? A. Something I have considered.

Q. Again, in an effort to operate this terminal now that time has been gained by injunction, in case of a resumption [154] of picketing.

Mr. Adams: I move to strike that last statement as not being a question which didn't require any answer.

Q. You wouldn't operate if we put pickets up there, would you? A. We will desperately make an effort.

Q. On May 4, 1966, did you use supervisory personnel to bring the passenger trains into the terminal? A. I did not, sir.

Q. Well, did somebody use supervisors? A. I am under the impression that several trains were brought in by supervisory personnel.

Q. Do you know of any passenger that was not able to detrain that was brought inside the premises of the Terminal Company on May 4, 1966? A. No, sir.

Q. Well, sir, inside the premises of the Terminal Company, could you tell the Court just where or what facilities of the Terminal Company are used by FEC on a day to day basis? A. I couldn't.

Q. Well, sir, do you know if passenger cars are repaired, for example? A. Yes, sir, I do.

[155] Q. FEC cars? A. Yes.

Q. By terminal Company employees? A. That's correct.

Q. And switches are thrown by Terminal Company employees in order to allow trains to come in and out of the yard? A. Yes, sir.

Q. And are brake tests and inspections on any of these cars—passenger or freight, made by the Terminal Company employees? A. Passenger, only.

Q. And, of course, in FEC's passenger operations, they use the facilities of Terminal Company personnel, in so far as tickets and things like that? A. That's correct.

Q. And, is the Jacksonville Terminal Company, and for the record it is obviously the northern terminus of the FEC.

Mr. Adams: I object to that as calling for a conclusion.

I think the evidence shows that the FEC property stops on the north bank of the St. Johns.

Mr. McAlliley: The question, Your Honor, was:

Was the Terminal Company—the northern—constitute the northern terminus of FEC.

That was my question.

[156] The Court: Isn't this a matter of common knowledge?

Mr. Adams: We objected to it.

We would take the position that the Bowden yards did. I think the evidence shows that the Terminal Company doesn't own any property inside the business of the Jacksonville Terminal Company. I mean, the FEC doesn't. That the FEC doesn't own any property inside the limits of the Terminal Company.

The Court: Do you know the answer, of your own knowledge?

The Witness: Of my own knowledge, the East Coast does not own any property that is contained within the bounds of the Jacksonville Terminal Company.

Q. All right, sir, does the East Coast own part of the Jacksonville Terminal Company? A. Through stock ownership.

Q. All right, sir. Along with three other railroads? A. That's correct.

Q. Now, is the Jacksonville Terminal Company, and I am asking you, sir, in your capacity as superintendent of transportation at that facility, is the Jacksonville Terminal Company an integral part of the FEC's day to day operation?

Mr. Adams: I object to that as calling for a conclusion.

Mr. McAlliley: I will rephrase it, Your Honor.

[157] *By Mr. McAlliley:*

Q. Does the Jacksonville Terminal Company perform services on a day to day basis, routine basis for FEC? A. For one passenger train arriving and one passenger train departing, it also provides the facilities or tracks, rather, for the Florida East Coast engines to handle this freight movement.

Q. All right, to handle this freight movement, which is really what is involved here.

The Terminal Company employees are necessary to get the freight through the terminal, Terminal Company, and back on to FEC? A. That's right.

Q. Now, sir, could you tell this Court which railroad, the FEC performs and has the most interchange? A. Without the record, I am sorry, I can't give you that information.

Mr. McAlliley: I have nothing further, Your Honor.

[158] Mr. Milledge: Could I ask him just one question?

By Mr. Milledge:

Q. Do the FEC crews and trains come on to the property of the Jacksonville Terminal? That is the green area shown on Exhibit 1? A. The trains do come on the property of the Terminal Company.

Q. And do they come from the south over the Acosta bridge? A. Not over the Acosta. Parallel to the Acosta.

Q. Do FEC trains or crews, which enter from crossing the St. Johns River, do they run the full length of the terminal all the way up into what is shown here as the ACL yard, also shown as Moncrief? A. Some engines do, yes, sir.

Q. Every day they move this full length of the (indicating)? A. It is a regular procedure.

Q. Do FEC trains and crews and engines run all the way over here and to honeymoon and YH yard into the west edge of the yard— A. —yes, sir.

Q. —into the green area? A. Yes, sir.

Q. Then, they do that on a daily basis? A. That's correct.

[159] *Redirect Examination by Mr. Adams:*

Q. Mr. Batten, with respect to the passenger services performed by the Jacksonville Terminal Company or the FEC, the one train, do you know what percentage of the total passenger service performed for the Jacksonville Terminal Company that this service for FEC constitutes? A. On a passenger basis it would be less than one percent of the total cars handled.

Q. I see. How many passenger trains come in and out of the Jacksonville Terminal Company on a daily basis? A. We have 44 passenger trains, except on Sunday, and there are 42. The East Coast passenger trains does not operate either in or out on Sunday.

Q. I see. So, there are 44 daily, with the exception of Sunday when it is 42? A. That's correct.

Q. And the East Coast passenger service, the handling equipment is less than one percent, as opposed to the total passenger service? A. That is correct.

Q. All right, now, with respect to the freight service, tell the Court exactly what services the Jacksonville Terminal Company performs for getting the freight through the Jacksonville [160] Terminal Company yards, so far as FEC is concerned? A. The Terminal Company provides the trackage for the Florida East Coast to move the yard cuts either to or from the other railroads.

We also operate interlocking towers to route those over the tracks of the Jacksonville Terminal Company.

Q. Do the Jacksonville Terminal Company crews actually handle the equipment? A. No, sir, they do not.

Q. In other words, all they do is to throw the switches to provide clear routes there? A. That's correct.

Q. With respect to the ticket sales, do you know what percentage of the total ticket sales the sales for the FEC bear? A. I am sorry, I am not able to answer that. But, as I understand it, it is very minor.

Q. With respect to the FEC trains, how big a train is that? A. It is two cars.

Q. Two cars? A. Yes, sir.

Q. And a locomotive? A. That's right.

Q. And you have got one out each day and one in each day [161] with the exception of Sunday? A. That's correct.

Mr. Adams: That's all.

[162] *Cross Examination by Mr. Milledge:*

Q. Mr. Batten, what percentage of the freight is interchanged on the premises of the Jacksonville Terminal Company, is interchanged to or from the FEC for coming or going out? A. With the exception of the interchange that is made in TY and YH yards, those are the only two locations that they are interchanged on Terminal property.

They actually leave our property and go to the property of another railroad.

Q. I am talking about the interchange made on your property—not just passing through. You heard, I believe, Mr. Jenette testify before that it is about 30% of the freight interchange done on his property? A. I'm sorry, I didn't hear his testimony.

Q. Isn't that approximately correct? A. I don't know.

Q. Does the Jacksonville Terminal Company not itself interchange traffic with the FEC? A. We do on occasion.

Q. And switching crews would handle that interchange? A. Our switch engines would place the car in the TY yard and the East Coast crew would get there. I don't even recall the last car that we interchanged either to the East Coast or to us.

[163] Q. In addition to the 12 supervisors, that you say are available to handle the towers, have not other super-

visors from other railroads been brought in to assist in other duties in your department? A. No, sir, they have not.

Q. Have arrangements been made to bring them in? A. There has been conversation, but there has been no definite arrangements made on them, no, sir.

In fact, I haven't seen the first one yet.

Q. What conversations have taken place?

Mr. Adams: Your Honor, I will have to object to that as hearsay. As rank hearsay.

The Court: Yes, I don't think there is any possibility that this witness could answer a question so broad as the conversations that took place.

Mr. McAlliley: He testified that he is an official of the—

The Court: Whatever he knows.

Mr. Adams: Your Honor, this is just speculation as to what was going to happen, if something else happens.

I think it is improper, and I object to it.

The Court: Well, rephrase the question and let's see if we can get the proper question here.

Q. Is it not your understanding that arrangements have [164] been made for supervisory personnel of other railroads to take care of all key operations of the Jacksonville Terminal so that it can operate, in the event that pickets are put up?

The Reporter: Just a minute. I have run out of paper.

(Laughter.)

A. (No answer.)

Q. Is it not your understanding that arrangements have been made for supervisors to be provided from other railroads to take care of all key functions of the Jacksonville Terminal Company in the event that picketing is resumed? A. It is my understanding that they will give us as much help as they can.

Q. And when you say, "they," you mean— A. I mean of the various owner lines of the Terminal Company.

Q. Which is ACL, Seaboard, Southern and FEC? A. That's right.

Mr. Milledge: That's all.

Redirect Examination by Mr. Adams:

Q. Mr. Batten, with respect to the interchange of the Terminal Company with FEC company, can you give us any idea [165] of how much of that takes place, how often? A. I am sorry, but I don't even recall when the last car we had an interchange there. That is something that is very—that a very few cars interchange.

Q. Is it a daily occurrence? A. No, sir, it is not.

Q. Is it a weekly occurrence? A. I am sorry, I can't tell you. I know it is not very frequent.

Q. Would it occur on a once a month basis? A. It would be just a guess. I would say maybe once or twice a month. I really don't know.

[166] *Recross Examination by Mr. Milledge:*

Q. What you have just been testifying to are cars from the FEC to the industries served by the Jacksonville Terminal Company? A. No, sir, that is for the Jacksonville Terminal Company itself.

Q. I see.

Well, how about the ones that are served by the Jacksonville Terminal Company, which is rather substantially more than you just testified to? A. I don't quite understand you.

Q. Well, don't your crews take cars out of the Jacksonville Terminal Company property and deliver them to certain points—industries? A. That is correct, yes, sir.

Q. And don't you get some of that traffic from FEC? A. Not to my knowledge, no, sir.

Q. Is that what you have just been testifying to? A. Yes, sir.

Q. And the bulk of the interchange is done between other railroads, either on your property, or through your property? A. That's correct.

Mr. Milledge: That's all.

[167] *Redirect Examination by Mr. Adams:*

Q. Mr. Batten, does the interchange between the railroads occur on the Jacksonville property, or does it occur in Moncrief yards and the honeymoon yards and places like that? A. Most of it occurs on the Jacksonville Terminal Company property.

Q. With respect to the total interchange, what proportion would occur on the Jacksonville Terminal Company and what portion— A. —I am sorry, I can't answer that, except to my knowledge a large portion is to the other railroads, because we only have two small yards of our own, a small capacity—the TY and YH yards.

Mr. Adams: That's all.

The Court: Shall we recess until 7:30?

Counsel: (Shaking head to the affirmative.)

[1] SATURDAY EVENING, MAY 28, 1966

ALFRED G. JOHNSON, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Adams:

Q. Please state your full name. A. Alfred G. Johnson.

Q. And what is your business, Mr. Johnson? A. I am Operation Manager of the Railway Express Agency, Jacksonville, Florida.

Q. That is just what I was going to ask you.

Mr. Johnson, where in the City of Jacksonville is the Railway Express Agency located? A. On Myrtle Avenue, Bay Street, Church Street.

Q. All right, sir. With respect to this map over here, are you able to step up to the map here and point out— A. Let's see—if you will show me—

Q. Here's Forsyth Street in here, and here's Myrtle Avenue right in here (indicating map). A. This green right in here—Myrtle Avenue—here is Church Street.

Q. Here is Church Street right here? [2] A. Yes.

Q. Where would the Railway Express Agency be with respect to that? A. Right in here.

Q. All right, sir. Resume your seat.

Mr. Johnson, what is the business of Railway Express Agency? A. Transporting perishables and traffic of all nature, into and out of Florida.

Q. All right, sir; and do you lease this premises, these premises from Jacksonville Terminal Company? A. We do, yes, sir.

Q. Now, how many employees do you employ? A. At the present time—it fluctuates with the seasons—at the present time, we are employing 325 men and women.

Q. All right, sir. Mr. Johnson, in connection with the prior matter I asked you to make an investigation to determine how many manhours your employees worked during the month of March, 1966. Do you still recall that? A. I do. I have a note here of it. The actual hours were 64,457 hours.

Q. Now, do you know how many pieces of express that you handled during the month of March, 1966? A. By our actual record, we had, 1,190,496 pieces [3] in; and, of course, there was that many pieces that went out.

Q. Everything that comes in goes out? A. This is a transfer point, yes, sir.

Q. Mr. Johnson, is any of this express business handled for the account of Florida East Coast Railroad Company? A. No, sir.

Q. Who is it handled for? A. The Seaboard Railway and the A. C. L. Railroad.

Q. How do you get your express? How does it come in? A. It comes in by train and piggyback. Since the East Coast has been on a strike, we operate our own vehicles down the East Coast of Florida.

Q. Down the East Coast? A. Down the East Coast only. All the other traffic in and out of Jacksonville is by piggyback and rail cars.

Q. Does it go out the same way, by rail? A. Yes, sir.

Q. Do you own any tracks or rail facilities? A. We own four miles of tracks on leased ground. The tracks leading into our property is owned by the Railway Express. It is maintained, however, by the Jacksonville Terminal Company.

Q. This is under lease agreement? A. Yes, sir.

Q. Mr. Johnson, do you have any railroad equipment? [4] A. We have railroad cars, the refrigerators.

Q. But how do they get in and out? Who moves them in and out? A. The railroad. We do not have any pulling power or any power whatsoever. The Atlantic Coast Line and Seaboard Railroads bring the cars to Jacksonville for the Railway Express Agency, and the Jacksonville Terminal Company switches the cars from the two railroads to and from our terminal.

Q. Do you ever handle any perishables? A. I would say that 60% of our traffic is perishable.

Q. Can you give us some examples of the perishables handled? A. Well, we handle citrus. We handle flowers. We handle remains; and we handle a lot of Government traffic, Army surveyor, armored guard. We handle Federal Reserve money. You name it, and we handle it.

Q. Sea food? A. Sea food, yes, sir.

Q. Now, what is the average wage that you pay your employees, if you are able to state that? A. I would say it's $2.68 an hour is the average.

Q. All right, sir. Now, you are presently working 325 employees? A. Yes, sir.

[5] Q. All right, sir. Now, you are presently working 325 employees? A. Yes, sir.

Q. Now, do you recall the picketing that occurred at Jacksonville Terminal Company on May 4, 1966? A. Yes, sir.

Q. As a result of that, did you incur any difficulty in getting your traffic moved in and out? A. We did. As a matter of fact, on the morning of May 4, Wednesday, the passenger station, we had sixteen cars arriving in Jacksonville; and the Jacksonville Terminal Company advised me that they could not switch these cars to my platform. In my platform, scheduled to go out that morning was six cars. These cars, incidentally, were perishables, with

sea food, flowers, and general merchandise. These six units were tied up so that we could move out of Jacksonville.

Q. What happens to your perishable items if they get caught in there and can't get switched out? A. We buy them. The company loses that.

Q. Now, did your employees come to work, by the way? A. Yes, sir.

Q. What happens to your employees though, if you can't get the rail transportation to bring the goods in and to take the goods out? [6] A. Well, it's obvious that we would have to cut them off. There would be no work for them to do.

Mr. Adams: That is all.

Cross Examination by Mr. McAlliley:

Q. Your employees are represented by the Brotherhood of Railway Clerks? A. Yes.

Q. Who is the General Chairman of the Brotherhood of Railway Clerks on the property of the Express Company, Mr. Johnson? A. Mr. *H. B. Meares* is the local chairman. We do not have a general chairman. He's the local chairman for the St. Johns Lodge; and Garrison Davis is the local chairman for the St. James Lodge. There's two separate lodges, one colored and one white.

Q. And all of your employees, members of the Brotherhood of Railway Clerks union did report for work on May 4, 1966? A. Oh, yes.

Q. Were any pickets around the employees' entrance for your employees? A. There were pickets on Church Street. Church Street is the entrance to my trailer operation where the piggybacks come and go.

[7] Q. Church Street, if you know, is that also an entrance for employees of Jacksonville Terminal Company? A. No, sir.

Q. Were there— A. I beg your pardon—it's not an entrance reporting to and from work. It's my understanding, of course, when they switch my cars in there, why, the employees are operating the engines that switch the cars.

Q. Of your own knowledge, do you know whether some Jacksonville Terminal Company employees do in fact report to work at that entrance? A. No. That is my property. They would have no occasion to report to work.

Q. Were other areas of the Express Company open for your employees to come to work? A. Yes.

Q. And they did come to work? A. Yes.

Q. And the Railway Express Agency, sir, is that owned by a Class 1 railroad? A. Yes, sir.

Q. Is F. E. C. a Class 1 railroad? A. Yes, sir.

Mr. McAlliley: We have nothing further.

[8] *Redirect Examination by Mr. Adams*:

Q. Is this ownership—is that a stock ownership? A. I am sure it is, yes, sir.

Q. How many Class 1 railroads are there in the country that participate in this ownership? A. All of the Class A railroads.

Q. How many are there? A. I don't have the slightest idea.

Mr. McAlliley: Two hundred or—

Mr. Adams: Do you know, Mr. Moore?

Mr. Moore: Better than 300 railroads.

Mr. Adams: That is all.

(Witness excused.)

MARSHALL C. JENNETTE, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Adams:

Q. State your full name. A. Marshall Cox Jennette.

Q. You are the President and General Manager of Jacksonville Terminal Company? A. And Chairman of the Board, yes, sir.

[9] Q. Now, Mr. Jennette, on May 4, 1966, did you observe the pickets at Jacksonville Terminal Company? A. Yes, sir, I did.

Q. Did you make an inspection of the premises to determine the location and the number of pickets? A. As soon as I was called and could get there, I went to all the entrances surrounding the Terminal Company, and it was then about 4:00 A.M.

Q. Can you examine the map that is up there, Plaintiff's Exhibit 1, and can you determine where those pickets were? Does that refresh your recollection, or do you have any notes which would— A. I have some notes I made that morning.

Mr. Milledge: I have got a copy of the map which he used last time with his markings still on it.

Mr. Adams: Can we use that and introduce it as an exhibit?

Mr. Milledge: Yes, sir.

Mr. Adams: Was this an exhibit in the other case?

Mr. Milledge: It still has an exhibit number on it.

By Mr. Adams:

[10] Q. Mr. Jennette, go through here and—now, start with the passenger station and—

Mr. Towers: Let me suggest that you do it in front of the Judge.

The Court: You stay there and I will come down there.

Mr. Milledge: Maybe we should have it marked first.

Mr. Adams: Let's do that. This will be Plaintiff's Exhibit No. 23.

(The instrument last above referred to was received in evidence and marked Plaintiff's Exhibit No. 23.)

By Mr. Adams:

Q. What is shown on here is the equivalent of the green in Plaintiff's Exhibit 1? A. Correct, yes, sir.

Q. Start with the passenger station. Point that out on the exhibit, if you will. A. Passenger station is at the end of Johnson Street, and on the *west* side of Bay Street.

Q. Will you show His Honor where the pickets were and start there working around toward the west? A. Well, at Davis and Water Street, the entrance to the A. C. L. Dining Car Commissary were two pickets, and I [11] have a parking area in that green area for employees, for some electrician and car department employees, as well as some

ice and water men, and we have a small storehouse, an ice house located near that location; and right at Lee and Water Street, there was one picket, and we have a narrow driveway that comes into the storehouse at the passenger station between Lee Street or—would be Park Street on one end and Lee on the north, there were four pickets, and adjacent to the passenger station—

Q. Where were those pickets? Were those pickets stationary? A. No, they were walking between Lee Street and Stewart Street.

Q. Is there a sidewalk there? A. Sidewalk there, and we have three drive-in entrances into our property as well as all our baggage is handled at the end of Johnson Street on the *west* side of Bay Street; and at Stewart, there were two walking back and forth across Stewart Street, and that is where the Seaboard Dining Car is located in this building on Stewart Street; and then there were none in front of the post office; and then at the mail shed, which is—this is Cleveland Street here—is not so designated, but at the west end of the post office and Cleveland Street, and from there down for about three hundred [12] feet is our mail handling facilities, and there were four pickets.

Q. What business is carried on there by the Terminal Company? A. That is where we unload and load mail that is coming into Florida and has to received a breakdown by the Post Office Department for further distribution to the sectional centers and the towns located in Florida. We have to unload that mail and send it—a large percentage of it goes up into the second floor of the Post Office, and it is reworked and comes back to us in different bags with new labels on it, and there we have to load it

either in railroad cars or trucks for further shipment downstate.

Q. While we are talking about the mail, is this mail handled—does the Terminal Company have mail contracts? A. We have contracts with the Post Office Department to handle certain mails by truck.

The other mail coming in by rail cars, we handle that for the account of the railroad.

Q. Which railroads? A. The Seaboard and Coast Line and Southern Railroad.

Q. Do you handle any of the mail for the Florida East Coast? A. It does not handle any mail at this time.

[13] Q. Mr. Jennette, with respect to the total mail that comes into the State of Florida by mail, how much of it comes through Jacksonville Terminal Company? A. All of it comes through Jacksonville Terminal Company comes by rail.

Q. Of all the mail that comes in Jacksonville Terminal Company, what percentage of it comes— A. Well, Jacksonville Terminal Company handles about 95% of the mail in and out of the State of Florida.

Q. All right. Continue on around, where were the rest of the pickets? A. There were two pickets at Myrtle Avenue and Bay Street where we have a drive entrance into the west end of our mail shed where the large trucking operation goes on by the Seaboard and Coast Line for outbound mail going downstate. All that is southbound. That driveway is also an employee entrance where employees report to the Signal Department and to the Myrtle Avenue tower, and a lot of the mail handling employees park under Myrtle Avenue, this Expressway at Myrtle Avenue, that is an employee parking area; and then as you go up Dennis Street, the Atlantic Coast Line main line going

towards Palatka and Sanford has a driveway on the west side of the track, and there were two pickets picketing—there were two pickets at this driveway adjacent to the Coast [14] Line's main line.

Q. Is that an entrance to Jacksonville Terminal Company? A. That is a driveway into our crosstie storage yard and into the yard office at Honeymoon and also a lease of space we have with a paving contractor.

Q. All right. Go ahead. A. At Stockton Street, there were about—at 4:00 A.M., there were four pickets but about 6:30, they had been reduced to three pickets, and that is where the Seaboard tracks cross. Terminal Company property ends some five or six hundred feet from Stockton Street, that is east of Stockton Street.

Q. All right, sir. A. And then at McQuade Street, tracks across McQuade Street are owned by Jacksonville Terminal Company and Atlantic Coast Line Railroad; and there were four pickets and that has been referred to as being the east end of Moncrief Yard, Moncrief Yard being a Coast Line switching terminal; and at Beaver Street, there were two pickets in the vicinity of the underpass of Beaver Street; near our Lee Street tower where our employees have a parking area and report to work, there's some signal people and tower people report there; and at Acorn Street and Beaver Street, one picket where the Seaboard Savannah freight line crosses Acorn Street, but down a little way from Beaver Street, we have a repair shop and a gate where [15] employees report and work on passenger cars, and there were two pickets at the entrance to the repair shops, about 200 feet south of Beaver Street on Acorn; and at Church Street, where the tracks, main line tracks of the Seaboard going north, passenger

tracks of the Seaboard going north to Savannah and the tracks coming into the Express shed, there were four pickets walking there, and I believe there's thirteen tracks crossing at that location, and that is also the entrance to our roundhouse and shop facilities where all of our switch crews and engine crews report to work, and they park and have locker rooms in that general area.

Q. Is that all the pickets that you saw? A. That is all the pickets I saw. I see on this map, picket two, near A and B in Beaver Street, but I did not see any pickets at that location, so if there were any under the bridge at that point, I missed them.

Q. Mr. Jennette, I want to hand you these pictures which I believe I identified as Plaintiff's Exhibits 2 through 20, and ask you to look at those pictures. A. (Witness complies.)

Q. I want to see if—

Mr. McAlliley: He's previously identified them. We will stipulate that they reflect certain areas of picketing on May 4, 1966.

[16] *By Mr. Adams*:

Q. Let's go through them hurriedly and make sure that they are the same ones that you saw. A. Yes, sir. I was present when these pictures were made by the photographer.

Q. Are these pictures of the pickets that you have described? A. Yes, sir.

Q. I want to hand you Plaintiff's Exhibit No. 13, and ask you what that picture shows? A. Well, that is the entrance to the south—that is the southwest corner of Stewart and Bay Street.

Q. All right. There is a sign on the side of the building there. Read that sign. A. That building is owned by the Terminal Company, and the sign says, "This entrance for the employees of the F. E. C. Railroad." Employees of all other railroad companies use entrance at Johnson and Bay.

Q. What is the purpose of having that sign, Mr. Johnson? A. Well, it was to designate an entrance for the F. E. C. employees, and it was placed there over three years ago when the non-operating groups put up pickets, and that is where the non-operating crafts picketed for more than two years.

Q. Mr. Jennette, were you present there—I take it [17] you were present that morning when the pickets were walking back and forth? A. Well, I made the rounds around the station two or three times, and then I was later occupied by other matters.

Q. Do you know *Carl Wright*. A. Oh, he's one of our employees, yes, sir.

Q. Do you know A. L. Groves? A. Very well.

Q. Did you see either one of them that morning? A. I saw both Mr. Groves and Mr. Wright that morning.

Q. What did you observe? A. Well, they spent practically all the morning on the north side of Bay Street in the vicinity of the passenger station.

Q. Did you see—what did you see them do, if anything? A. Well, they were in various places up and down the sidewalk talking to various employees who were in the vicinity of the employee parking lot. We own a piece of land between Johnson and Stewart Streets on the north side of Bay Street for our employees to park their cars.

Q. All right. Did the Jacksonville Terminal by and large—did your Jacksonville Terminal Company employees cross the picket line? A. Very few of them.

[18] Q. What was the effect on the operation of Jacksonville Terminal Company so far as their ability to carry out their business? A. Well, employees who came on around midnight or just prior to midnight were due off in the early morning hours when others around 8:00 o'clock, when other employees were supposed to work, and by other employees not reporting, we held the employees on an overtime basis in order to carry on the railroad business. Our passenger schedules are such that we have a rush period in the early morning and late afternoon, and we need the employees to handle the trains that were already arriving at that hour.

Q. Were you able to handle all of your trains? A. Yes, sir, we handled them but we did not handle them as fast because we didn't have as much power on. We only had two switch engines on where normally we have four come on in the early morning, and we were late in handling passenger trains out that day with two switch engines.

Q. Eventually your employees came back to work that day, did they not? A. Well, yes, we got temporary injunction and we were able to—

Q. The picket line came down? A. We were able to get the picket line down by around [19] 5:00 o'clock that afternoon or soon thereafter. We were right in the middle of our evening rush period.

Q. What effect did the picket line have on the people who operated the towers? A. Well, we were unable to—we were only able to hold those until around 10:00 A.M. and then we were very much handicapped in that we did not have a train supervisor personnel to handle the towers. We have one signal supervisor who knows a good deal about maintenance of towers, but he's not skilled at operating routes through the yard; and we have one assistant

superintendent of transportation who is skilled and trained in that work but he couldn't do a whole lot by himself.

Q. Did it reach a time when you were operating largely with supervisory personnel? A. Well, around 5:00 o'clock, we were operating practically altogether with supervisory personnel, but it was very slow operation and very difficult operation and it took about three or four times as long to do everything.

Q. Does your work tend to pile up on you in a situation like that? A. Well, it piles up right quick when our rush period—all these trains are scheduled in here just about the same time in the evening going northbound and in the morning going [20] southbound primarily, and it only takes just an hour or two to get behind in our work and it piles up very fast.

Q. What effect did the pickets have on the operation of the mail, handling the mail? A. Well, practically none of the mail handlers came in. We did not have a group of mail handlers carried over from the night before. Normally, our mail handlers come on around 5:00 o'clock in the morning, so it caught us without any of the mail handling employees on, and we were handling some mail that day. The Post Office people sent their employees out to help load the morning trains out that morning, and we got some mail moved but we were just about tied up at the mail shed all day on May 4.

Q. All right. Now, assuming a work stoppage in the work department, if you shut down, say, for a period of twenty-four hours, how many days would it take you to catch up?

Mr. McAlliley: I object to this assumption unless the assumption is based on the fact that they wouldn't

bring in help from the Post Office Department. . . . In other words, I think your assumption should be—mail backing up without any help at all.

The Court: Obviously they couldn't answer [21] without telling them the conditions. . .

Mr. Adams: My question was assuming there was complete shutdown of the mail. In other words, if you have a period in which you don't handle any mail for twenty-four hours . . .

The Witness: Could I answer it by saying it took two days to get over the shutdown of May 4 which we handled a small amount of mail and obviously it would have taken a little more than two days if we hadn't had any mail at all on May 4, so we did have normal help on the night of the 4th. We were able to call in some help, and then on the 5th and the 6th, it was 5:00 o'clock on the 6th before we were back to normal with our mail operation.

[22] Q. All right, sir, now, Mr. Jennette, what is the corporate organization set up at the Jacksonville Terminal Company; is it a Florida Corporation? A. It is a Florida corporation.

Q. Do you know who owns the stock in the corporation? A. It is a non-profit stock corporation, and all of the stock is owned by four railroads on equal share basis of no one owns more than any other corporation.

Q. As the Jacksonville Terminal Corporation, do they own tracks? A. Land, tracks, and buildings located thereon.

Q. Do you *own* switch engines? A. We own seven switch engines, own all the locomotives necessary to do

the Jacksonville Terminal switching, which is seven locomotives at present.

Q. Who controls the day to day operations of the Jacksonville Terminal Company? A. I do.

Q. Do you have a staff that assists you? A. I have a full staff, I think either twenty-eight or twenty-nine non-contract employees out of about seven hundred and fifty employees.

Q. The Jacksonville Terminal Company employs their own employees? A. They employ their own employees, we—

[23] Q. And do you have—does the Jacksonville Terminal Company have labor agreements with the various Railroad Brotherhoods? A. Yes, we do.

Q. Do you know which of the Brotherhoods they have contracts with? A. Yes.

Q. Would you state that, please, sir, for the record? A. We have contracts with the Brotherhood of Railway Steamship clerks, the Brotherhood of Railway Maintenance Employees, the Brotherhood of Railroad Trainmen, the American Railway Supervisor's Association, the Brotherhood of Railroad Signalmen, and the Transportation and Communication Employees union, Brotherhood of Locomotive Engineers, the Yardmasters' of America. The System Federation No. 50, Brotherhood of Railway Carmen of American, Brotherhood of Boilermakers, the Iron Ship Building—the Blacksmith Forgers and helpers, the Inter-National Association of Machinists, The Sheet Metal Workers Association, and the National Brotherhood of Electrical Workers, and the International Brotherhood of Firemen and Oilers.

Q. Does the Jacksonville Terminal, it has agreements with each of those? A. All these organizations.

Q. Do your agreements cover any employees other than [24] employees of the Jacksonville Terminal Company?

Does the Jacksonville Terminal Company have an agreement with the Order of Railways Conductors and Brakemen? A. No, sir.

In agreement with the WTBLF and E.

Q. All right, Mr. Jennette, as far as you know, does the Jacksonville Terminal Company have any dispute with any of its Brotherhoods with respect to the hours, working conditions or rates of pay? A. No, sir.

Q. Does the Jacksonville Terminal Company have any sort of dispute with the Brotherhood of Railroad Trainmen for which they are picketing the Terminal Company?

Mr. McAlliley: I object, it calls for a legal conclusion, inas far as—

The Court: Would you read the question back?

(Court reporter read back the question.)

The Witness: No, sir.

The Court: The objection is overruled.

By Mr. Adams:

Q. All right, sir, now, with respect to the business of the Jacksonville Terminal Company, does the Jacksonville Terminal Company have any contracts with the various industries? A. Yes, we have side track agreements with— [25] Q. Just what is the nature of the agreements or contracts you have? A. We have side track agreements where we furnish tracks and service various industries adjoining our property and some are located on the Terminal property under lease arrangements.

Q. What agreements—what do the agreements require you to do? A. They might vary, we—vary to some extent.

Generally, we furnish certain parts of track and in some instances industry furnishes certain tracks, but we would switch them.

Q. Are you required to furnish switching services? A. On tracks adjoining the Jacksonville Terminal Company where we furnish connecting tracks, yes.

Q. Do you know which industries adjoin the Jacksonville Terminal Company for which you are required to furnish switching services? A. I am familiar with most of them, the larger ones.

Q. List them.

The Court: I assume this is by contract, when you say required to furnish.

Mr. Adams: Yes, by contract.

(Witness answering)

A. Along Dennis Street is All State Pipe Company, Duval [26] Steel Company, Bercleve Concrete Products and Supplies, Atlantic Ice and Storage Company, *Gitty* Brothers, I believe that is—I believe that is Gitty Grocery Company instead of brothers, Crane Company, *Samona's* Paving Company, and there is a contractor that I am not able to recall his name right now. He is subletting a piece of property that we own on Beaver Street.

There is Clark Fruit Company, and on McQuade Street Buffalo Tank, on Church Street there is Florida Rag and Security Federal, and I believe I missed about three over on Dennis Street, which would be Harbor Plywood, Patterson Cold Storage and Jones Chemical Company, and there is possibly five or six others I don't recall at the time.

Q. All right, sir, now, what sort of cars do you switch to these industries? A. Well, they would be freight cars, some of them would be handling perishables and be refrigerated cars. I know the government is storing a lot of butter, potatoes, things like that in the Atlantic Ice and Storage, cold storage company.

On our lease properties, from us on Dennis Street, this would be, so it would be everything from steel to rags, including foods and perishables.

Q. Without the benefit of your transportation department would you be able to fulfill these contracts? A. No, sir, we—I don't see how we could at the [27] present time.

Q. All right, during the limited time the picketing was up on May 4th, 1966, did that have any effect on your ability to service the contracts or perform the contracts? A. Did we? We were not able to switch any on that date.

I would like to add the largest company A & P Tea Company Bakery and Coffee department is located on us on Beaver Street. I am sorry I omitted it.

Q. I believe you stated the Jacksonville Terminal Company does have contracts with the United States Government for handling the mail? A. Yes, sir, we do.

Mr. Adams: May I have just a moment, Judge.

The Court: Surely.

Mr. Towers: Does Your Honor understand the acetate overlay locates the pickets?

The Court: Nobody said so. All I know is what someone tells me. Those are the same locations shown on Plaintiff's Exhibit 23?

Mr. Towers: Yes, sir.

Mr. McAlliley: I assume so, I was told in Court of Appeals—

Mr. Towers: Just for the record—

[28] *By Mr. Adams*:

Q. Let me ask you one other question, can you or will you please look at the overlay on top of Exhibit One there which is the map of the Jacksonville Terminal Company, can you identify in green and you will see some circles with some numbers in them, please check with plaintiff's Exhibit Three and see if those circles with the figures in them correspond to the figures on Plaintiff's Exhibit 23, as to the locations and number of pickets about the premises of the Jacksonville Terminal Company. A. Well, it will be a little misleading, I think. Here's a circle with a mark on it, if that mark is intended to show right where the pickets were, this mark, for instance, should be away over on Stockton Street. As it is, it is pointing to the Seawall Street, and Seawall Street doesn't cross the railroad.

Mr. Milledge: Go to your next question.
Mr. Adams: We have no further questions.

* At this point correct identification of attorneys was made.

Cross Examination by Mr. McAlliley:

Q. Mr. Jennette, we inquired of you in certain areas before Judge McRae as you recall. I am going to have to cover some of the same grounds for the record, but I will [29] try to move as quickly as I can.

First of all, as to pickets and their location at Davis and Water Streets, is that an employee entrance at that location? A. Yes, sir, I have a ten foot driveway, it goes right down the side of the Coast Line's commissary, comes in the parking lot that holds about twenty-five or thirty automobiles, and my employees park in there.

Q. And at Lee and Water Streets, the employees' entrance, also, specifically, is that where the employees, to that interlocking tower go to work? A. You can go in one way and out the other. Both of them lead to the same place.

Q. All right, sir.

In going around the passenger station, of course, the pickets alongside Bay Street, down to Myrtle Avenue, are again employee entrances? A. Yes, sir.

Q. That is where employees go to work for the Terminal Company? A. Employees, passengers, report to Park, rail load business, employees and passengers.

Q. To make the record clear, I am referring to employees of the Jacksonville Terminal Company, they go to work on the entrances picketed on Bay Street, among others? [30] A. Among others, yes, and others could be Seaboard, Coast Line, and these other railroad employees.

Q. Was the United States Post Office Building picketed, sir? A. I don't think it was.

Q. When you refer to the mail shed, we are referring to the Jacksonville Terminal Company installation? A. Wholly owned by Jacksonville Terminal Company, and all employees handling the mail in that facility are Terminal employees.

Q. Mr. Jennette, you said you were president and chairman of the Board. Do you receive any salary as Chairman of the Board at the Jacksonville Terminal Company? A. I receive one salary.

Q. As president? A. Yes, sir.

Q. In the event of the resumption of picketing along Bay Street and around your premises, have you issued instructions or caused to be issued instructions for employees to go in through the Post Office Building? A. No, sir.

Q. Going down to Myrtle Avenue and around the premises of the Terminal Company at each one of these locations, sir, is that employee entrances with the exception of McQuade Street and the exception of Stockton Street?

[31] A. And one at Acorn Street.

Q. The one at Acorn Street cuts the Seaboard cross town track? A. That's correct.

Q. With the exception of Acorn and picketing at Stockton Street and McQuade Street, all the rest of the places picketed on May 4, 1966, were entrances used by employees of the Jacksonville Terminal Company? A. Well, I have got some ties stored back in here (indicating). After a man gets back to work, he has to use the driveway to pick up crossties. There are none reporting at Dennis Street, none of them reporting to work at this location.

Q. But the dirt road at Dennis Street, which is adjacent to the Atlantic Coast Line railroad, there is area used during the course of their work? A. During the course of Terminal yard back there, yes.

Q. With reference to Dennis Street, on May 4, 1966, did you ever see any pickets, and I am referring to Plaintiff's 23, and location of No. 2 in the center lower 2 on this exhibit, did you ever see any pickets actually cutting the track of the Coast Line that morning? A. Not the short time I was there, no, sir.

Q. Now, with particular reference to the picketing at Stockton Street, at the previous hearing we had, YH and H [32] marked on Plaintiff's Exhibit 3, and those two symbols reflect Honeymoon yard and YH yard? A. They do.

Q. What interchange takes place and what railroads? A. YH and Honeymoon yard are used between the Seaboard and the Florida East Coast Railroad, and Seaboard and Jacksonville Terminal Company.

Q. All right, sir.

And is Stockton Street the nearest place a picket can be placed with relationship to Honeymoon and YH yard without trespassing on somebody's private property? A. That's right.

Q. Private property involved would be Jacksonville Terminal or Seaboard? A. We own no property either side of Stockton Street.

Q. As you leave Stockton Street, walking toward YH and Honeymoon, it would be Seaboard's or somebody else's? A. Yes, sir.

Q. Stockton Street is a public road here in Jacksonville? A. Yes.

Q. Referring to McQuade Street, you testified the Jacksonville Terminal Company had some ownership at that location; is that correct? A. We and the Coast Line own the right of way there, and we gave the City an easement about three years ago to—[33] for them to pave it and use it as a public street.

Q. And again, McQuade street, I believe, on Plaintiff's Exhibit One, is—would be where I am pointing right now? A. Right.

Q. Is McQuade a public crossing? A. It is considered a public crossing under the easement agreement we have with the City.

Q. Does the Florida East Coast interchange moving from south to north, referring to the Atlantic Coast Line Railroad *interchange*, sir, run over to the Terminal into McQuade and the yard? A. That is correct.

Q. On May 4— A. That is correct.

Q. That would be the case about—before and after May 4th? A. That is correct.

Q. Now, turning to the United States Mail, have you been in contact with the people concerned about the mails, that is those connected with the United States Government about additional help in case of the resumption of picketing? A. I have not.

Q. Has anyone contacted you about it? A. No, sir.

Q. Has anyone made any efforts at all to make arrangements [34] like that? A. No, sir.

Q. Now, have arrangements been made for personnel from various railroads to train to operate the interlocking plants? A. As has been testified by other witnesses, the Seaboard, Florida East Coast and Coast Line have offered and sent in people from their Signal Department to study and try to learn something about these interlocking plants so they might be helpful if pickets are returned to the Terminal Company.

Q. These are the four railroads that own the Terminal Company? A. I only mentioned three. I don't know anything about the Southern employees offering or coming in.

Mr. Adams: I interpose an objection to this line of testimony. I think that everyone recognizes the Terminal Company does have a duty and obligation to many, many people to remain open and do the best they can. The fact they take precautions to try to do so, I don't think that has any relationship to the evidence, as such. Certainly, anything they did would have a temporary nature.

The Court: I assume the purpose of the questioning is to show the impact of a picketing, that picketing would not be as great as you gentlemen are attempting to show; is that correct?

[35] McAlliley: That, Your Honor, plus the railroad like their employees, are making common cause in the situation, helping one another out.

Mr. Towers: Kind of like provisions for an atomic bomb attack.

The Court: You are showing what such a thing as common cause between management people, as well as labor people—I can't say it would be wholly irrelevant to whatever issues may be forming up here. The objection is overruled, if that was a formal objection.

By Mr. McAlliley:

Q. Have arrangements been made with rail carriers that own the Jacksonville Terminal Company for supervisors to be brought in in case of resumption of picketing? A. Only supervisors I know they plan to take in is to get their trains in and out, as long as they operate passenger trains.

Q. Have sleeping facilities been made up or considered in case of resumption of picketing? A. They are not available, they have not been considered.

Q. Have you placed an ad in the newspaper for new employees? A. It has, yes, sir.

[36] Q. It was done after consultation with attorneys? A. Attorneys approved of it.

Q. Now, has the—let me withdraw that.

It is clear in the record that four railroads own the Terminal Company? A. Yes, sir.

Q. Does the Terminal Company operate under permit or license or of some kind under the Interstate Commerce Commission? A. You are going back to ancient history, and I don't know.

Q. To your knowledge, are they certificated in any way from the Interstate Commerce Commission? A. The only thing I know they approved of the financing of the bonds, that is the only thing I know of.

Q. Do you know whether the Interstate Commerce Commission approved the agreement under which you operate the Terminal Company? A. I suppose you refer to the agreement where the bonds were sold, that is the only instrument I know of approved by the Interstate Commerce Commission.

Q. Now, you testified that on May 4, 1966, very few employees crossed your picket lines? A. That is true.

Q. How long have you been in the railroad industry, [37] Mr. Jennette? A. I started June 13, 1932.

Q. Prior to being with the Terminal Company, what property were you connected with? A. Just prior to the Terminal Company I was vice-president of Norfolk Southern Railroad.

Q. During your vast experience in railroading, you, of course, have seen on a number of occasions fellow railroad workers honoring picket lines of other railroad men?

In your experience, you know for example, you know disputes have been submitted to the National Railroad Adjustment Board? A. Yes, sir.

Q. You know the National Mediation Board, comes in play with railroad disputes and their employees? A. In some instances.

Q. Are there any outstanding section six—are there any section six notices presently outstanding on the property of the Terminal Company? A. Are you referring to about the ten or twelve we have received in the last two or three days?

Q. I am not referring to the last batch, other than the last batch. A. Those are the only ones we have, the last batch.

[38] Mr. Adams: I object, it is irrelevant and immaterial, the only thing to determine, it seems to me, is whether or not there is some sort of dispute which would give rise to the picketing. That is what we are after, and Mr. Moore already testified that is not the case.

The Court: You don't think Mr. McAlliley has the right to cross examine on the testimony he just gave?

Mr. Adams: That who gave?

The Court: The witness.

Mr. Adams: Section six wasn't brought out on direct about any disputes, except with respect to centralizing the present picketing.

The Court: I conceive he is cross examining on that very point.

I'm a little mystified, I am utterly mystified as to section six. I recognize this court, what was it the Supreme Court of Florida said, "Just a way station on way to the United States Supreme Court."

I take it this part of the record is for their benefit.

Mr. McAlliley: There are two boards set up under the Railway Labor Act. One is the Mediation Labor [39] Board, and it deals with changes in contract, Section Six of the Act which is 45 United States Code 156 sets up procedure by which parties change agreements, issue a notice of proposal to change, which has been known as Section Six.

In its process, a party cannot agree, they can submit it to mediation, and so forth and so on. Those

are called major disputes. These are changes in agreement, and so forth.

Now, changes in agreement of rate of pay and workmen, this is all Section Six.

The other area is the area of what is called minor disputes, and those are disputes not involved in changes in rules, regulations and working conditions. They are generally time claims, disciplinary matters, a man is drunk, something like that. There is a dispute, and it is processed to the Railway Adjustment Board.

The operating crafts are in a different section, Section—excuse me, Division One, and non-operating crafts are on the remaining four divisions. Those are the two agencies generally provided in minor and major disputes.

By Mr. McAlliley:

Q. On the morning of May 4th or any time during the [40] picketing, did you see any violence on the picketing line? A. I didn't see any violence.

Q. Did you see any untoward action by any picketing? A. Not by picketing.

Q. Did you see any act like breach of peace or anything like that performed by a picket or exhibited by a picket on May 4th, 1966, other than walking with the picket sign? A. Being slow about getting out of the way.

Q. Tell me if you observed that? A. I observed some walking very slow and very indifferent where they were going to move to let a car come in and out that had to come in and out. Yes, I observed that.

Q. Other than picketing slow, being slow in getting out of the way of a car, did you see anything else that would constitute breach of peace? A. No, sir, that is all I saw.

Q. Did you observe—when you observed the slow pickets, did you call any police or take any action to remedy it? A. I didn't want to cause any violence I could be cited for.

Q. Neither do we, Mr. Jennette.

You testified to the number of pickets and location.

Could you tell us what area generally the property [41] the Terminal Company encompasses? A. It is all property that is—lays on the north side of the St. Johns River and is bounded by McCoy's Creek on the south side for a great distance, where it is inaccessible you might say, until you get up to Myrtle Avenue. Then, it is bounded by Dennis Street on the south, and—

Q. Can you tell me— A. —Beaver and Church and Acorn Street, and Myrtle Avenue and Bay Street.

Q. Can you tell me in terms of miles how long it is or how wide it is? A. Roughly a little over a mile long and more than—more than a quarter of a mile wide. It represents about sixty-five or seventy acres of property.

Q. Now, the sign that you have identified in one of the photographs, a sign erected on the side of a building of the Terminal Company, have you ever seen an FEC employee go in that entrance, sir? A. No, I don't remember that I ever have.

Q. Are employees of the railroad entitled to use any entrance at the Terminal Company; aren't they? A. I don't have any police power to make any employee use any entrance.

Q. You just told me you have never seen an FEC employee use the reserve gate; have you seen other employees

[42] going in there? A. Yes, I have seen other employees use the Stewart Street, yes, sir. It is a public street.

Q. And this sign was erected within the first few days of the strike, that is the strike which started January 23, 1963? A. It was several days thereafter, probably a week, something like that.

Q. To your knowledge, was the Brotherhood of Railroad Trainmen on strike at that time or the Conductor's Union— A. Not that I know of.

Q. Or the Firemen's Union? A. Not that I know of. I was told non-operating craft.

Q. As far as the sign located—to your knowledge today do the operating crafts have anything to do with—did the operating crafts have anything to do with its erection or agreed to its being reserved to coming in the Terminal Company at one location? A. Not that I know of.

Q. Do you have any instructions in the operation of the Terminal Company that would require employees to come in one gate or another gate? A. The only thing, heads of railroads advised these signs were being placed and they were asked to have their [43] employees use those entrances.

Q. One of the ideas behind having the sign up there was to keep the whole Terminal Company from getting picketed; wasn't it? A. That's right. Keep the Terminal Company operating.

Q. In the first few days of the strike, Mr. Jennette, did you take any action to prevent the FEC to come in the Terminal Company?

Mr. Towers: I object to this 1963 strike. I believe it is irrelevant and immaterial.

The Court: What point are you directing this to, Mr. McAlliley?

Mr. Milledge: I think—

Mr. McAlliley: They have the means of mitigation of the problems, which if they would do it, and they have done it before, the point of the testimony of eliminating the effect of picketing only to FEC movement. If they did do this, as they have before, as the testimony was of Mr. Moore, they would have no further dispute—there would be no further dispute and no need to picket.

Mr. Adams: I understand that the situation we have, not only to show irreparable harm, we have to show our right to enjoin these people. I don't think they would be able to, even if there were [44] some mitigating circumstances, or by reason of the fact we bring in supervisory employees, their right to picket depends on their right to picket, and the 1963 strike, or anything that went on at that time is completely irrelevant to the issues at this time.

The Court: I think you have a right to pursue this.

By Mr. McAlliley:

Q. Sir, did you take steps in the first days of the strike that began January 23, 1963, to halt the movement of FEC in the property of the Terminal Company? A. As best I can remember, on January—I would have to refer to my files, but on January 22nd, the local general chairman of the ORT, Order of Railroad Telegraphers—this is the only way I could answer the question, if he wants to know what took place, I would have to give him background.

Mr. McAlliley: Either he did or didn't.

The Court: I can't require the witness to answer yes or no.

The Witness: He wants to know what took place, this is the only way I can tell it.

The Court: You chose to ask the question, and you may give your answer in your own way, or you may withdraw the question.

(Witness continuing answer.)

A. January the 22nd, one of my own employees [45] working in the tower, who is a local chairman of the Order of Railroad Telegraphers notified me by letter he understood there would be a strike on the Florida East Coast Railroad, and they would not perform any services for the Florida East Coast Railroad during the strike.

This information was sent to the heads of all the four railroads. The Florida East Coast put out an embargo that stopped the movement of everything to and from its property.

The strike came off.

Then, the day it came off, the management of the Florida East Coast Railroad started wanting to run trains in spite of the fact an embargo was out against moving anything.

The employees put me on notice, and I refused to have them throw switches and permit these trains to be moved.

It was alleged there was fifty-two cars of perishables over on the south side of the river, if they didn't move, they would spoil.

I talked with the non-operating unions, primarily Mr. Hadley and a Mr. Jones, who were directing the strike,

and they agreed they would let these fifty-two cars move to the Southern Railroad, and the Southern Railroad said they would take them, despite the embargo, so at a designated hour and time those cars moved over, and my [46] employees would not handle the switches, and I sent up advisory personnel in the tower and took considerable time to route this train through the Southern Railroad. They had an engine in there to pick it up and moved it on. Then, the Florida East Coast then started wanting to start moving other cargo, empty cars and dry freight and said to have another train at a designated hour, and they would be back with it, and I said, "You can't, come."

The president of that railroad, no, the vice-president of operations, now vice-president, came in my office and said he was going to start moving all of these cars of the Southern Railroad, they would take them.

The Coast Line and Seaboard said they would not take any cars from the Florida East Coast because the embargo was out.

The Jacksonville Terminal Company had not placed any embargoes. The vice-president of the Florida East Coast Railroad said that he was going to move this freight through the Terminal Company to the Southern Railroad. I told him I couldn't permit him to do it. He could get an injunction and require us to do it, and we would be glad to do, to work for him.

I was speaking as management, not as labor, but I could not require my employees to do it.

He told me I could fire them if they didn't do it. [47] I wouldn't have to fire but one or two, I told him, until all would be sick, then the railroad would be tied up. If he wanted to go through the terminal and go to court and get

an injunction and open up the rout that way, and he later got the injunction.

It is still in effect, it is my understanding, and we have been out working ever since on that basis.

The Court: Does that answer your question?

Mr. McAlliley: Very thoroughly, that is the best answer we have been able to get in three years.

By Mr. McAlliley:

Q. Is it, from your answer, at the inception of this thing, at the FEC, January 23rd, 1963, your own employees were among those who decide not to handle FEC cars? A. The only one who ever notified me as to that was the Brotherhood of Railroad Telegraphers, our tower men might have been referred to in some instances as levermen.

Q. What is the name of the individual who notified you? A. Then the local chairman, Don Loop.

Q. He, of course, represented the towermen on your property? A. He represents the towermen on our property and spoke for all of them.

Q. All right. [48] A. And I might say, later the embargoes were finally lifted one by one until there were no outstanding embargoes at the time.

Q. Now, you testified you directed day to day operations of the Terminal Company? A. Yes, sir.

Q. Would you, please, tell the Court what services the Jacksonville Terminal Company performs for the FEC on a daily basis? A. Daily, except Sunday, we get the morning passenger train ready to leave. We throw—inspect it, test the brakes and give it clearance, furnish any train orders they might require to our telegrapher, telegraph

operator, and when they are ready to leave, we line the switches for them to leave out of track 21, I believe it is, for the most part, and in the afternoon when the train comes in, we line the switches and bring it in to the station on the same trip, generally speaking, and the passengers are unloaded, it handles no mail, or check baggage, and after the train has been released back to us by their employees, we take it to the round—we take it through the Y and turn it through the car washer and bring it back into the station, and then we take the engine off and carry it to the roundhouse and service it for the next morning departure.

Q. That is all passenger trains? [49] A. That is the only thing, if the cars, passenger cars require any repairs, we perform that, as well as any minor repairs to the locomotive.

As for the freight, the freight that they handle through the terminal, we only align switches and route the trains, either to the yard where they make deliveries or through the terminal, in the case they are going to another railroad to make a delivery.

Q. All right, now. Talking about freight and freight interchange, is there any way FEC can interchange with the Seaboard at the northern end of its railroad without going to the terminal company property and using the terminal company property? A. The northern end is the only property.

Q. The same is true as far as the southern railroad is concerned? A. This is only on connections—this is the only connection they can get with the Southern Railroad.

Q. Inasfar as interchange with the Atlantic Coast Line Railroad at the northern terminus of FEC, does it require

FEC's locomotive power, trains move through your premises and through the Moncrief Yard, so they can interchange with your carrier? A. That is correct, the working agreement with the Florida East Coast all the interchanging be made on—at [50] Moncrief Yard.

Q. On a day-to-day working basis FEC trains and crews use your services? A. Freight, seven days a week; yes, sir.

Q. And perform work in connection with FEC? A. Yes, sir.

Q. And hopefully with profits for FEC? A. I wouldn't know.

Mr. Towers: Objection.

Mr. McAlliley: I withdraw the question.

By Mr. McAlliley:

Q. You testified you have an agreement with the Brotherhood of Railroad Trainmen? A. Yes, sir.

Q. You have no agreement with the conductors or firemen? A. That is right.

Q. On the morning of May 4th, 1966, did you see any other union designations on the picket sign other than the Brotherhood of Railroad Trainmen? A. That is all that was visible.

Q. Consistent only with the trainmen who have a contract on your property there.

Now, do you use the word, "dispute", and you have told us you have some outstanding section six notices, do you [51] routinely have matters go to various divisions of the adjustment board concerning various differences of the company? A. I wouldn't say routinely. Occasionally we have matters.

Q. It is a method of resolving disputes during the course of your operations, year in and year out? A. Occasionally, we have such cases.

Q. For example, if you want to discharge a man, an employee, he wants to contest the discharge, this would be the routine? A. You asked me if it wasn't finally settled—

Q. Before it got to the adjustment board? A. That's right.

Q. Before it got to his officer on the property? A. That's right.

Q. Now, these side track agreements you have, sir, are these type of agreements common in the industry? A. Yes, sir.

Q. In other words, this or any other railroad normally would have such an agreement with industry? A. Yes, sir.

Q. All right.

Mr. McAlliley: That is all we have.

[52] *Redirect Examination by Mr. Adams*:

Q. Mr. Jennette, have you received any section six notice with respect to, of the Brotherhood, with respect to handling of FEC traffic? A. Oh, no.

Q. Isn't it, Mr. Jennette, in April of this year, do you know whether or not the BLF&E, and he instruct the terminal company or picketed the terminal company or earlier this year in the spring— A. You are going to a date back around the first part of April, some time, and we had what they call a fireman's strike on the Seaboard that was picketed one day.

Q. Did they picket the premises of the Terminal Company? A. We had a few pickets up and down Bay Street. Yes.

Q. Adjacent to the premises of the Terminal Company? A. Oh, yes.

Q. That was the BLF&E? A. I suppose the BLF&E. See, I am not sure it was the Seaboard firemen—the Seaboard firemen were the ones doing the picketing.

Mr. Adams: That is all.

Recross Examination by Mr. McAlliley:

[53] Q. Sir, have you submitted this dispute or any claim of any kind to the National Mediation Board or the National Railway Adjustment Board about the fact of your employees honoring the picket lines of the FEC employees?

Mr. Adams: I object on two grounds, first of all it assumes there is a dispute, number one, and number two, it assumes it is a dispute, a proper dispute to that—to submit to that board.

The Court: I don't find either assumption in the questions.

Mr. Adams: Read back the question.

(The reporter read back the last question.)

Mr. Adams: That assumes that it would constitute a dispute. They have been talking about legal conclusions or legal ramifications. It assumes the refusal of employees would constitute a dispute to submit.

The Court: I don't find any assumption explicit in the question.

The Witness: No, sir.

Mr. McAlliley: The answer is no?

The Witness: No.

Mr. McAlliley: That is all we have.

Mr. Towers: That is all we have.

Mr. Adams: I will ask another question.

[54] *Redirect Examination by Mr. Adams:*

Q. Mr. Jennette, what is the payroll of the Jacksonville Terminal Company? A. A little over $300,000 a month.

Mr. Adams: That is all.

Mr. McAlliley: No questions.

L. T. ANDREWS, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Towers:

Q. Would you please state your name, please, sir? A. L. T. Andrews.

Q. What is your occupation, sir? A. General Manager for the Atlantic Coast Line Railroad Company.

Q. All right, sir.

Now, Mr. Andrews, in that connection, what are your duties, please, sir? A. I have jurisdiction over the operation of trains and the handling of traffic on the Atlantic Coast Line.

Q. Mr. Andrews, so we can have some sort of idea of how many freight cars there are, ACL freight cars that come [55] in to the Jacksonville Terminal, can you give us the total for the month of March, 1966, of the freight cars that came in to the Jacksonville Terminal and the ones that went out of the Jacksonville Terminal? A. During the month of March, 1966, the car count, that is, cars handled

at the Jacksonville Terminal Company was, approximately, 100,000 cars.

That was in and out.

Q. In other words, when it comes in, that is counted once, and when it goes back out, it is counted again; is that right? A. Correct.

Q. All right, sir.

Now, these are cars interchanged with other railroads and, also, with the Coast Line itself going out of Jacksonville, and in different directions from the directions they come in on? A. They are interchanged with other railroads. We do handle cars outbound, but do not show them on interchange, as such, they are just through cars for the Coast Line handling.

Q. With respect to your passenger trains, can you tell us how many passenger trains came in and out of Jacksonville in March, 1966, not the passenger trains, but the number of passenger cars? [56] A. During March, 1966, we handled a total of 11,628 passenger cars through the Jacksonville Terminal.

Q. The mail cars, are they carried on the passenger trains? A. That is correct.

Q. What can you tell us with respect to the number of mail cars handled by the Coast Line? A. The Coast Line handled an average of 30 cars per day that carry U. S. Mail, and in addition, we handle an average of 22 trailers, 40 foot trailers loaded with mail for the bulk mail.

Then, we also handle 12 RPO cars manned by Government employees who receive, sort and distribute the mail from the cars.

Q. Could you translate the quantity of mail that is handled by the Coast Line through the Jacksonville Terminal

in the sacks of mail per day? A. It will average 17,761 sacks per day.

Q. Now, with respect to the type of freight that is being carried in the railroad cars that come into and leave Jacksonville of the Atlantic Coast Line to the Jacksonville Terminal Company interchange, what can you tell us about the military nature of any of that freight? A. We handle a great deal of military traffic, including traffic from the Cape Kennedy installation and [57] missile complex at the Merritt Island, also, handle military traffic to and from destinations on the Coast Line. There is a large amount of perishable traffic that moves through the Jacksonville Gateway.

Q. Now, with respect to the operation of your passenger trains, as well as your freight trains, through and out of Jacksonville, will you tell us what effect the temporary stoppage on May 4th of approximately 14 hours cost? A. Well, the placement of pickets around the Jacksonville Terminal Company on May 4th completely stopped the movement of passenger trains in and out of the Terminal installation.

Our Coast Line crews refused to cross the picket lines, either to bring the trains in or go in to the station to carry the trains out.

As far as our freight train operation is—are concerned, all of the freight trains that operate to and from, what we refer to as the Tampa Division, that is, Jacksonville, Sanford, Orlando, Lakeland-Tampa area have to pass through the Jacksonville Terminal Company, and the freight train crews refused to cross the picket lines.

Q. Did this temporarily stop those trains, Mr. Andrews? A. It did. It stopped them, and it was necessary for us to round up some forces and try to get them through the

[58] picket lines, which is very difficult and hazardous operation at best.

The Court: Do you truly mean "hazardous", or difficult?

The Witness: Hazardous, because of the people we have to put on there to operate the trains and are not customary in every day work handling that type of operation.

In other words, any operation around a railroad has a certain amount of hazards connected with it, and unless you are familiar with it and do the work day-by-day, it is even more hazardous for a man that does not have that everyday experience.

Q. Mr. Andrews, with respect to your passenger train crews, can you tell us approximately how many men will be affected with respect—inasfar as the elimination of passenger trains for failure to have people to operate them? A. At the present time, we operate a total of 22 passenger trains in and out of Jacksonville Terminal Company per day. That is 11 trains in and 11 out. If we are confronted with the pickets, like we had on Marcy—May 4th, we will not be able to continue to handle all of the passenger trains.

We will have to immediately discontinue some of the trains, which would include trains 27 and 28 between [59] Jacksonville and St. Petersburg, trains 191 and 192 between Jacksonville and St. Petersburg, trains 75 and 76 between Jacksonville and Tampa and the western streamliners, that is, the City of Miami and the Southwind, which operate on alternate days between Chicago, Jacksonville and Miami. We will simply not have enough supervisory crews to attempt to handle those trains.

Well, for the immediate time being, if pickets are restored, we will try to run the additional passenger trains in and out. I don't know how long we can carry on in such a manner.

Q. What would be the daily loss in payroll of the employees that you would intend to eliminate by the elimination of these trains you just described? A. In eliminating the trains I just described, would be 113 of Coast Line employees eliminated or cut off with a daily payroll of approximately $2,300 per day, which is based on average pay per person or employee for the Atlantic Coast Line during the year 1965 of $7,200, in the final analysis I am sure that payroll would be greater than $2,300 a day, but that is the best calculation we had to figure it on.

Q. Mr. Andrews, do all ACL passenger trains coming in to Florida, come in to—through Jacksonville in the Jacksonville Terminal facilities? A. Yes, sir; in the Jacksonville Terminal Station is [60] the only terminal within the City of Jacksonville.

Q. All your passenger service into Florida comes through it? A. That's right.

Q. With respect to all of your freight cars that come into and go out of Florida, is it, also, correct that most of that comes through Jacksonville and the Jacksonville Terminal facilities? A. A large percentage does go through the Jacksonville Terminal facilities. We do have an operation from Jacksonville to Gainesville and Ocala that goes out on the north end of Moncrief Yard, which does not pass through the Jacksonville Terminal facilities.

Q. It goes out of Moncrief Yard through the north, and therefore doesn't have to come south and through the Terminal Company? A. That is correct.

Q. Compared to the volume of business that goes through the Jacksonville Terminal interchange facilities, what is the percentage of this traffic that goes out north from Moncrief? A. I don't have the exact figures, but my judgment, from experience based on the knowledge of our operations, I would say we have about five cars to one coming through the Jacksonville Terminal Company going to the Sanford, Tampa [61] side, as related to the cars that go out, going out to the north end of the Gainesville-Ocala side.

Q. 5/6ths go through the Jacksonville Terminal facilities; is that right? A. Yes, sir.

Mr. Towers: No further questions.

Cross Examination by Mr. Milledge:

Q. Mr. Andrews, you testified previously, as I recall it before Judge McRae— A. On what, sir?

Q. In connection with picketing on the Jacksonville Terminal Company? A. Yes, sir.

Q. You were then questioned on that occasion by your attorney, Mr. Towers? A. Yes, sir.

Q. He represents the Atlantic Coast Line Railroad? A. He was—I was questioned by Mr. Towers. I have nothing to do with hiring the attorneys.

Q. That is your understanding, he is one of the Coast Line attorneys; is he not? A. I would assume so, sir.

Q. Now, before I start this, you have, also, an interchange in Lake Harbor, do you not, with the FEC? [62] A. Connecting Lake Harbor—

Q. You have an interchange track at Lake Harbor? A. Interchange track there; yes, sir.

Q. You have a small complex there which—what is known as an interchange track? A. It is designated as an interchange at all interchange locations.

Q. Isn't it a fact the crews at Lake Harbor, Atlantic Coast Line Railroad crews honored the picket lines and refused to take traffic across the picket lines there at Lake Harbor? A. Would you tell me when you are talking about, please?

Q. Any time since April 24, 1966? A. I have—I know of no pickets down there since April of 1966.

Q. At any time since January 23rd, 1963? A. We did have some pickets down there in January, January 23rd, 1963, for a period of time, I don't recall just how long, but the—we were affected at the interchange to some extent down there.

Q. In any case, your employees honored the picket lines located at Lake Harbor?

In other words, they didn't take the Coast Line equipment through the picket lines? A. I am trying to recall exactly what that situation [63] was. Of course, that has been a little over three years ago, and—

Q. I am sorry I didn't mean to cut you off. A[illegible]d if I recall correctly, the picket—the interchange location at Lake Harbor is on the Coast Line side of the canal down there, and the road crossing is on the other side of the canal and we had some difficulty, but I don't recall it being too much.

I just can't give you any details right now.

Q. Do you have any information now of any picketing since April, 1966? A. No, sir. The interchange at Lake Harbor is very small. There is not much interchange down there. During the winter months, the U. S. Sugar Corpo-

ration operates through there, handles some sugar cane from the Florida East Coast side to the Florida East Coast side going to Clewiston, and load in cars and deliver back to the East Coast at Lake Harbor.

The volume of traffic is very small down there.

Q. *You have a piggyback operation at the actual interchange of the FEC?* A. I don't know of any piggyback operation.

Q. Of the Atlantic Coast Line tractors and trailers loading out of Lake Harbor area? A. Lake Harbor is on the coast line, I hope so, down [64] there.

Q. Over by the Okeechobee area? A. No, sir.

Q. How about the next interchange Vincent Junction, is there any interchange conducted there? A. Various limited interchange on—at Vincent Junction since January, 1963, just an occasional car.

Q. For the most part, all of your freight interchange with FEC is done in Moncrief Yard? A. Yes, sir.

Q. Referring to Plaintiff's 1 in evidence, and is this blue line going south toward Sanford, is this the Tampa Division you are referring to? A. May I take a closer look at it?

Q. Yes, sir. A. Yes, sir; that in blue appears to be the Atlantic Coast Line.

Q. For FEC to interchange with you requires them to run through the Jacksonville Terminal into the premises of Moncrief Yard? A. That is correct.

Q. Is interchange with FEC conducted with Atlantic Coast Line Railroad per day, day-to-day basis within Moncrief Yard—within Moncrief Yard on a day-to-day basis, at least since April 4, 1966, you have conducted business with [65] the FEC inasfar as it involves interchange? A. Since what date, sir?

Q. April 4, 1966? A. Yes, sir.

Q. I am using that date, because that is the date of the organization we represent went on strike, and have major dispute at FEC, during that period you have been doing business with FEC interchange at Moncrief Yard? A. That is correct.

Q. Now, you talked about discontinuing certain of these passenger trains.

Have you employed—have you applied to Interstate Commerce Commission as to, in any event, to discontinue some of these trains you are talking about? A. No, sir.

Q. Seaboard, have they been trying to discontinue some of the passenger trains or anything within your knowledge— A. I don't know.

Q. Now, as to the events of May 4th, 1966, sir, were any individuals that you used to carry these trains across the picket lines around Jacksonville Terminal Company injured or hurt in any way that you know of? A. No. Fortunately, we did not have any injuries.

Q. Well, who do you use to carry the trains across, [66] trainmasters at Moncrief and supervisory personnel, were they operating at Moncrief? A. Trainmasters and road foremen of engines and we got some people out of the general offices.

Q. The people you got out of the general offices had they handled locomotive equipment in the past and knew about handling locomotive equipment? A. The ones used May 4th; yes. If picketed for a long duration, we don't have enough supervisors.

Q. If there was resumption of picketing at the Jacksonville Terminal, have you made any arrangement to use supervisory personnel to— A. We will try to keep abreast

of the situation, and if we have an emergency, I try to be prepared to protect it.

Q. All right, sir.

The question was, as to supervisors, Mr. Andrews, have you made any arrangements with regard to supervisors in the event this emergency, as you put it, occurred? A. We have got some of our people on alert to move whenever we tell them to.

Q. How many people do you have on alert to move, if and when you tell them to? A. I don't know the exact number.

Q. Can you give an approximation? A. 12 to 15.

[67] Q. Mainly road foremen, trainmasters and people with experience in operation and handling of equipment? A. Mainly, but we have others who are not road foremen or trainmasters.

Q. To your knowledge, sir, is the Atlantic Coast Line Railway, does it have any of its personnel particularly the signal department training on interlocking towers at the Jacksonville Terminal Company? A. No, sir; they are all home in bed asleep, as far as I know.

Q. How about yesterday or in the last two weeks or any time since May 4th, 1966, have you had any training? A. We had people go up and look over the tower.

Q. Why? A. Trying to keep prepared for an emergency.

Q. Try to operate in the event that picketing is resumed? A. We try to be prepared.

Q. In this case, prepared to operate the towers in the Jacksonville Terminal Company in the event picketing is resumed? A. We have an obligation, I think, to our customers and the people who ship freight by Coast Line.

We are going to do our best to provide a service. It won't be good as service we might like to provide, if we [68] have

the pickets, and we are going to have to curtail a good bit of services presently provided.

We do hope to continue a limited service and try to be prepared for it.

Q. I am not trying to argue with you at all, I am trying to get the facts for the record.

Is your view as general manager to try to operate and provide service, and does that include the necessity of helping and assisting the terminal company in the resumption of picketing—

Mr. Towers: I think he is getting into argument, and it is repetitious, and I think he has answered it two or three times.

The Court: I think the last question was fully answered.

Mr. McAlliley: I have no further questions.

The Court: I don't want to limit your examination.

Mr. McAlliley: We have no further questions, of Mr. Andrews.

Mr. Towers: May the witness be excused?

The Court: Surely.

Mr. Adams: We are going to announce closed.

Mr. Towers: I think we will—we already agreed there is a major dispute.

Mr. McAlliley: You will agree to that?

[69] Mr. Adams: Between the Florida East Coast Railroad Company and its employees.

Mr. McAlliley: Within the meaning of the railway labor act.

Mr. Moore having been previously produced and duly sworn as a witness, testified further as follows:

Direct Examination by Mr. McAlliley:

Q. You are *Deputy* President of the Railroad Trainmen, who testified previously in this case; are you not? A. Yes, sir.

Q. While you were out of the room, we entered into a stipulation that there is a major labor dispute between the Florida East Coast and its employees in connection with that dispute, did the National Mediation Board approve arbitration? A. Yes, sir.

Q. Did the Brotherhood of the Railroad Trainmen accept arbitration? A. Yes, sir.

Q. Did the Florida East Coast accept arbitration?

Mr. Towers: Your Honor, it is immaterial and irrelevant to the case, our case is our employees [70] reached a contract with us.

The Court: I can't immediately see the relevancy. Let's ask Mr. Milledge what he conceives its relevancy to be in this particular cause.

Mr. Milledge: It only shows that the Brotherhood of Trainmen exhausted every procedure available under the Railway Labor Act before it undertook strike action.

The parties are not forced to accept arbitration, but it does affect their status in the Courts, if they refuse arbitration. It would, particularly, prevent FEC from getting an injunction, from getting an injunction against any one.

I think it has some bearing on the status of the Brotherhood of Railroad Trainmen, in that they did agree to accept arbitration.

Mr. Towers: I still fail to see the relevancy with respect to the issues in this case, the allegation of inducement or breach of contract, the inducement was to the employees of the Jacksonville Terminal Company, that is, the issue in this case and doesn't seem like it is material to me with respect to what other question was.

The Court: I can't see it. It may have—you [71] may have something in the back of your mind that would help you somewhere, that is, in the intricacies with the labor laws, which I am not familiar with, and unless you help me out, I would have to say, I can't see any relevancy with what we are dealing with here.

Mr. McAlliley: Could I proffer the answer?

The Court: Yes, sir; as a proffer.

By Mr. McAlliley:

Q. As a proffer, did the Florida East Coast accept arbitration? A. They refused.

Mr. McAlliley: That is all I have, that ends the proffer and also ends the testimony of this witness.

Mr. Towers: I have no questions.

MR. JENNETTE having been previously sworn, further testified as follows:

Direct Examination by Mr. McAlliley:

Q. Mr. Jennette, you are the same Mr. Jennette that previously testified; correct? A. Yes.

[72] Q. What portion of the traffic, freight traffic, which is interchanged on the premises of the Jacksonville Terminal Company is interchanged for FEC? A. You framed this question a little different from the way I answered in the other case.

Q. All right. I am sorry. A. It is approximately 30 per cent of the traffic to and from the Florida East Coast Railroad, which is interchanged by all railroads owned or through the Terminal Company.

To break that down and just say what part of that is Southern and Seaboard, would be a little difficult for me to say.

Q. What is 30 per cent—the 30 per cent of? A. It would be a 30 per cent of all freight interchanged between the four railroads, one with the other, on or through the Terminal Company.

Q. Is FEC— A. If you had 10,000 cars in the fold, if I said—if there were that many, then there would be approximately 30 per cent or 3,000 of them would be going to or from the Florida East Coast Railroad.

Q. Now, the whole we are speaking of, is that done on Terminal Company property and through Terminal Company property? [73] A. That's right.

Now, just what part of that is Seaboard and Southern and Terminal Company, I would have to make a guess, and—

Q. You mean as to which, as to how much of the 30 per cent goes to Terminal and how much to ACL? A. No; you said on the Terminal property. The Terminal property is only that going to the Seaboard, the Southern or the Terminal Company. It excludes—

Q. ACL? A. ACL.

Q. All right.

The 30 per cent figure is of all freight interchanged either on or in or by virtue of passing through the Terminal and using, rather than using the Moncrief Yard? A. Yes, sir.

Q. Now, you operate the Jacksonville Terminal Company by virtue of an operating agreement; do you not, sir? A. We have an operating agreement, as I referred to before, was an order to sell about $4 million worth of bonds.

We had to show our corporate setup in order to sell the bonds.

Q. You have an agreement between yourselves which when I say yourselves, I mean the Terminal Company and your four owning-wise, as to what services you render; do you not? A. There is an operating agreement. I would have to [74] look at that agreement, whether we signed it or the railroad signed it for us, there is an operating agreement between the four railroads regarding the Terminal Company's operation.

Q. All right.

And that determines, that is the agreement that determines what services you render to the other railroads?

Mr. Adams: I object, the agreement would be the best evidence of what it provides.

Mr. McAlliley: I am not asking for the terms of the agreement, I am asking the nature of the agreement.

The Court: That is my understanding of what he is asking, not what the content of the agreement is, simply what he has reference to.

The Witness: As I read the agreement, it binds the railroads more than it does the Terminal Company. It says what the railroads can do at the Ter-

minal Company and what they cannot go out and do, otherwise, I will give you an example, the Atlantic—

(At this point, Miriam Waters continued the reporting of the above witnesses' testimony.)

[75] A. As I read the agreement, it binds the railroads more than it does the Terminal Company. It says, what the railroads can do at the Terminal Company, what they cannot go out and do otherwise. I will give you an example. Atlantic Coast Line Railroad could not go out here to Moncrief and establish their own passenger station and avoid the passengers at the Terminal Company by stopping their trains short of the Terminal Company.

The Court: I'm afraid the witness did go into the content of the agreement. If you insist upon your objection, I will have to retroactively sustain it in view of the answer.

Mr. Adams: I move to strike.

By Mr. Milledge:

Q. Mr. Jennette, I believe you previously testified that you and your staff at the Jacksonville Terminal Company made the day-to-day decisions for the Jacksonville Terminal Company, is that not correct? [76] A. Yes, sir.

Q. Does the Florida East Coast have the power under the documents by which the Terminal Company is created to discharge you? A. I don't know.

Q. Is that not what is contained in that agreement?

Mr. Adams: I object to this as being completely irrelevant and immaterial. The agreement itself is

the best evidence and I can see no relevancy at all to the issues in the case.

The Court: Let's face it. The witness says he doesn't know. It more or less disposes of the inquiry. Perhaps I am doing something I shouldn't do, but I can't help having read the papers that there is some controversy on that very point.

Mr. Towers: Not in this case, there isn't.

The Court: Not in this case—

The Court: If Mr. Jennette can answer the question, I think he ought to give that answer to some court—

Mr. Towers: We submit it's not in issue.

The Witness: That is why I answered it as I did, Your Honor.

[77] The Court: Perhaps I shouldn't bring into play something I read in the newspapers but I can't help having read it, and he said he didn't know, and I understand why he doesn't know.

Mr. Milledge: That is all we have.

Mr. Adams: We have no questions.

(Witness excused.)

Mr. Milledge: Your Honor, we have three documents from another court file. They are from the United States District Court for the Middle District, Judge McRae; the complaint filed by the Atlantic Coast Line and the Jacksonville Terminal Company and Seaboard, in the initial action filed on May 4; the order for preliminary injunction issued by Judge McRae; and the order entered by the Court of Appeals which reversed that order; and we think they do have relevance in this proceeding. They certainly

have historical relevance, but they also—their complaint contains, which are judicial admissions and the history of what did occur, the latter two probably Your Honor could probably take judicial notice of, [78] but for this record we would like to offer them as a part of this record.

The Court: I could not take judicial notice of them but I am aware of the fact that this litigation that you refer to is recited in brief in the complaint so I assume it to be relevant to this.

Mr. Adams: We don't feel that the documents themselves are relevant or material to the issues. We don't think the entire document should come in, and also this matter is still at this moment pending before the Supreme Court of the United States, and as far as any judicial admission, it would, I think, have none.

The Court: I don't know, but Paragraph 8 of your amended complaint recites these matters. If it's sufficiently pertinent to this litigation to be dealt with in your complaint, I think it's sufficiently pertinent to come into evidence here for whatever bearing it may have.

Mr. Adams: We'd be willing to stipulate that the complaint was—the matter was reversed—[79] and the matter is pending before the Supreme Court.

To admit the documents themselves, we say that is burdensome and that what is contained in the documents themselves is irrelevant and immaterial.

The Court: Objection overruled. For whatever use they may be, they will be admitted into evidence as the Defendant's Exhibits 1, 2 and 3. The complaint is 1. The order for preliminary injunction is

2, and the decision of the Court of Appeals for the 5th Circuit is 3.

(The instruments last above referred to were received in evidence and marked Defendant's Exhibits 1, 2 and 3.)

Mr. Milledge: At this point, we offer a document entitled "Order for preliminary injunction," which was issued by the same court that issued the earlier mentioned preliminary injunction. The preliminary injunction was entered January 30, 1963. It pertains to the operating agreement of the Jacksonville Terminal Company, and it is an injunction which has been referred to in [80] the testimony here today as having some bearing on the operations of the Terminal Company—

(Arguments.)

Mr. Adams: We object to the admission of the order. It's another judicial proceeding, dating back three years, over a different matter. It doesn't relate to the issues of this cause which are for the inducement or the inducement to breach contract as—this is a single document which is taken out of a foreign file. It is taken out of context, and it purports to construe a document which is not in evidence here, and it is undoubtedly based on testimony which Your Honor doesn't have before you—We think it is utterly irrelevant and immaterial and misleading.

The Court: What useful purpose would it serve in this proceeding, Mr. Milledge?

Mr. Milledge: I think it is mostly by way of history, but it bears on what I take to be a contention

by Mr. Jennette as to the matter affecting his operations. I concede that its relevancy is thin, but it is a matter of history. I might say just so it will [81] be perfectly clear, I am not offering it for the truth of any findings of fact, but as something that was done.

The Court: Well, frankly, it's self fragmentary and, I recall whether correctly or not, I should say that I seem to recall that the portion of Mr. Jennette's testimony mentioned that there was given in response to a question of Mr. McAlliley that was objected to by the plaintiff and I permitted Mr. Jennette to answer it, but I just don't see that one little paper out of what could be very extensive litigation is going to do much good. I just can't see that that will serve any useful purpose. If the whole controversy which has—which that is a part is material in this case, it seems inconceivable to me, then, we'd have to have a record of the whole controversy including the testimony and evidence and all that sort of thing. I shudder to think of it.

Mr. McAlliley: The whole was introduced before Judge McRae.

Might we have it marked for identification?

The Court: Yes, sir. Be marked as Exhibit A [82] for Identification only of the Defendant.

(The instrument last above referred to was received and marked Defendant's Exhibit A for Identification.)

The Court: By the way, I notice these documents are not certified?

Mr. Adams: We won't object to that.

The Court: Very well.

A. L. GROVES, having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. Milledge:

Q. What is your name, please? A. A. L. Groves.

Q. What is your home address, Mr. Groves? A. 507 Latimer Drive, in Wilmington—Post Office Box 33.

Q. Wilmington, North Carolina? A. Wilmington, North Carolina.

Q. Are you employed by a railroad? A. Well, I am General Chairman of the Brotherhood of Railway Clerks.

Q. Do you hold seniority on a railroad? A. Yes, I hold seniority on Atlantic Coast Line.

Q. Do the Clerks hold a contract with the [83] Jacksonville Terminal Company? A. Yes, sir.

Q. Do you represent the employees in the craft of Clerks on the Jacksonville Terminal Company? A. That's right.

Q. Did you attend a meeting at the George Washington Hotel about a month ago, conducted by the Brotherhood of Railroad Trainmen pertaining to picketing in the Jacksonville area? A. Are you talking the one at the George Washington Hotel, I did, yes, sir.

Q. Did you attend one or more than one such meeting? A. One.

Q. And can you tell us approximately the date of that? A. Let's see—I think it was May 2nd, or May 3rd, one.

Q. Do you understand what was the purpose of that meeting? A. My understanding was to explain what the Trainmen did intend to picket Jacksonville Terminal Company, that the organization had exhausted all the ordinary procedures under the Railway Labor Act, as I understand the procedures, that it would be an orderly strike in the laws governing the actions of that type.

[84] Q. Now, what is the policy of your organization with regard to picket lines? A. It's been the policy of our organization since 1955, to my knowledge, that members of our organization would refrain from crossing the bone fide authorized picket lines.

Q. Now, on May 4, were—May 4, 1966, were you in Jacksonville? A. Yes, sir, I was.

Q. On the morning of that day, were you on Bay Street in the vicinity of Jacksonville Terminal Company property? A. A portion of the morning, yes, sir.

Q. And what was your purpose of being in that vicinity? A. To advise any employees, that is part of our craft and class, that I might see, what the policy of the Brotherhood was, to advise them that it was up to them individually whether or not they crossed the picket line; if they wanted to go to work, to go ahead to work, but if they were going to refrain from crossing the picket line, then my advice was to go on back home, or leave word where they could be located.

Q. Why did you want them to go back home? A. Well, if they were not going in to work, then they had no business congregating on the street, forming crowds that may block street crossings, passageways, sidewalks, entrances to restaurants, or any public place or any other [85] type property. That's always been our Brotherhood policy.

Q. Now, do you have a local chairman for the Jacksonville Terminal Company? A. Yes, sir.

Q. What is his name? A. Well, we have two: C. H. Wright and Roosevelt Miller.

Q. Was Mr. Wright with you on the morning of the 4th? A. That's right.

Q. Now, did any members of your organization seek your advice on that morning? A. Yes, sir.

Q. Do you know about how many? A. Well, I guess approximately 30.

Q. Do you know whether any of your membership crossed the BRT picket line? A. I understand some did.

Q. Did you instruct any of the men not to cross the picket line? A. No, sir.

Q. I believe you perhaps have already testified to this but what did you tell the ones who asked your advice? A. I told them it was a decision that they would have to make, individually, and that we did not advise them whether [86] to cross or not to cross. We advised them what—with reference to the resolution adopted by our Brotherhood at three consecutive conventions.

Q. To which you have already testified? A. Right.

Q. Did you threaten any of your members of your class and craft? A. No, sir.

Q. Did you have a conversation with a member of your organization named Morris Altman? A. I think so, yes, sir.

Q. Do you know him by name? A. Well, that part I am not sure. I know Altman. He's the young boy, I think, that works in Mr. Jones' office.

Q. Did you have a conversation with him? A. Yes, sir.

Q. Was Mr. Wright present? A. Yes, sir.

Q. Would you tell the Court the substance of that conversation? A. I told him in substance the same thing that I had told others. He intimated that this was the first time that he had ever been involved with a picket line, the best I recall. I told him what the policy of the organization [87] was. It was his decision to make, and he elected not to cross. I also recall him telling us that in the previous incident involving the firemen that he did go in to work because he did not see any pickets. That was why he did

go in. I said, "Well, that is understandable, from what I know," from what I heard, I was not here when the firemen thing happened, but I understood there was very few pickets and there was lots of employees that did not see them.

Q. Was anything said in your conversation with Mr. Altman regarding personal harm to him or anyone else? A. No, sir.

Q. Was anything said in regard to property damage to him or anyone else? A. No, sir.

Q. Now, did you observe the Brotherhood of Railroad Trainmen pickets? A. Yes, sir.

Q. Was there any violence at all connected with those pickets? A. Not in the ones I saw. The ones I observed was right on the front.

Q. On Bay Street? A. On Bay Street.

Q. Did any untoward incident occur? [88] A. No, sir, not to my knowledge.

Q. Do all of your people, that is the Clerks on the Jacksonville Terminal Company, did they come to work at the same time or do they come to work at different times? A. I am sure they have got staggered hours.

Q. Do you have any recollection about what time Mr. Altman came to work on May 4? A. I would say it was just before 8:00, just before or somewhere around 8:00 o'clock, the best I recall. I wouldn't know, really. I don't know what time he reports.

Q. Now, how do you happen to be in Jacksonville today? A. Well, I got this phone call last night.

Q. From whom? A. From Mr. Alan Milledge, informing me that some type of charge or something had been—naming me with reference to this situation.

Q. Mr. Grove, have you seen the type of charge that was being made against you? A. I saw part of it.

Q. Did you read what was called an amended complaint? A. I don't know what it was—just what the amended complaint is.

Q. Well, what was it you saw? A. That portion about the coercion and threats, I [89] believe, some wording to that extent, toward employees that crossed the picket line.

Q. That is the only part you looked at? A. I glanced at some other portions of it but I haven't read the whole thing.

Q. The only part that you particularly read was that part of it that had to do with coercion, is that right? A. That's right.

Q. And it was following the call last night that you came down, is that right? A. That's right.

Q. Now, as I understand it, you were down here though on May 2nd or 3rd for a meeting, is that right? A. Whatever date the meeting was, I believe the picketing was on the 4th—or the meeting was on the 3rd, the best I recall.

Q. Did you come down here in connection with your work for the A. C. L. or in connection with your work as General Chairman of the Railroad and Steamship Clerks? A. I was here in connection with my duties as General Chairman of the Brotherhood.

Q. Who did you work for, the A. C. L. or the Brotherhood? A. I work for the Brotherhood of Railway Clerks. [90] Q. I see. Do you receive any pay from the Coast Line? A. No, sir, not that I know of. I sure don't.

Q. All of your pay comes from the Brotherhood, is that right? A. Yes, sir.

Q. Now, what caused you to come down to this meeting on May 2nd or 3rd? A. I came here on May 3rd. My last work prior to coming here was in Birmingham in connection with the transfer of some jobs to the L. & N. Railroad in Birmingham. I returned here from Birmingham.

I had other matters, ordinary routine Brotherhood matters to handle, and I found out that there would be a meeting on the 3rd.

Q. You say you returned here? Should I imply from that that you had recently been here just before then? A. Yes, sir. I came through here on Sunday night before.

Q. I believe the 4th was on a Wednesday, was it not? A. Well, I believe that's right.

Q. You can check your calendar? A. I'll tell you, I was out two consecutive times. That is the reason the dates are difficult to remember. I came through here on my way to St. Petersburg.

Q. That was on a Sunday, was it? [91] A. On a Sunday.

Q. May 1? A. The hearing in St. Petersburg. The ICC hearing in St. Petersburg was on a Monday. That was May 23rd.

Q. May 23rd or April 23rd? A. April 23rd, I beg your pardon, April 25th.

Q. April 25th? A. Then, I came back through Jacksonville, I believe it was on a Thursday.

Q. Now, you say you came back through Jacksonville. Should I imply from that that you had been here before you went to St. Petersburg? A. I came through here on the way to St. Petersburg.

Q. On your way to St. Petersburg? Did you stop here for any of your Brotherhood business? A. No, sir.

Q. Just passed through? A. Right.

Q. Didn't transact any business with anybody with respect to your Brotherhood or any other brotherhood? A. No, sir. I arrived here Saturday night and left Sunday morning.

Q. Did you communicate with any individuals here with respect to any Brotherhood business during that particular

stay? [92] A. I don't recall. I might have called any one of five local chairmen. I don't recall calling any of them, though.

Q. If you did, it escapes your memory at this time? A. That's right.

Q. Therefore, whatever the subject matter might have been of any calls would have escaped your memory also, is that right? A. (No response.)

Q. You don't remember talking, so certainly you don't remember what you discussed? A. No.

Q. At that time, were you aware of the fact of impending picketers on May 4? A. No.

Q. You had no knowledge whatsoever that anyone had any plans to put up pickets in Jacksonville, Florida? A. No.

Q. You went on down to your meeting in Tampa— A. St. Petersburg.

Q. St. Petersburg, and then you came back through Jacksonville? A. Yes, sir.

Q. Now, did you communicate any business for your [93] Brotherhood when you came back through from St. Petersburg? A. I was over to the General Offices. I don't recall what for. The man I generally deal with was in the hospital.

Q. Was that Mr. Wright? A. No, Mr. *Seymour*.

Q. Mr. Seymour? A. I may have conferred with Mr. Wright. I may have talked to him. It is entirely possible.

Q. I see. Since you are rather vague whether or not you did, do you have any recollection at all of what the subject matter was of such a conversation? A. I might have asked him, if not then, on the way to Birmingham at some time had he heard of any meetings with reference to picketing of the Jacksonville Terminal Company.

Q. All right, sir.

Now, can you tell us why you would have brought up such a conversation since you had no knowledge at all of any such intended pickets at that time? A. When I came through Jacksonville on the way to St. Petersburg, I did not have any knowledge. I heard something at St. Petersburg.

Q. Tell us what you heard in St. Petersburg, and who you heard it from. [94] A. I heard it from, I think it was the General Chairman of the Telegraphers. Mr. *Mathews* said that he had heard that there had been a meeting in Jacksonville with reference to the picketing.

Q. This is the first knowledge you had of it, is that right? A. Yes, sir.

Q. What did you hear with respect to the picketing, any more than that? A. Well, about all that he had heard was that there had been a meeting. Then, when I got back, I am pretty sure it was when I came up from St. Petersburg, I called Mr. Wright. He said there had been such a meeting, he had understood, but that he had not been present.

Q. Did either Mr. or—go ahead. A. So, neither one of us knew much about it.

Q. Did either Mr. Wright or Mr. Mathews discuss with you at all the subject matter of this meeting that supposedly had taken place? A. Well, the only—only to the extent that the meeting was about picketing, he thought, of the Terminal Company.

Q. Of Jacksonville Terminal? A. Of Jacksonville Terminal. I couldn't imagine it being anything else because the East Coast was already picketed.

[95] Q. Was there anything in this discussion that led you to believe who the pickets were to be? A. No, sir.

Q. Nothing at all? A. Nothing.

Q. Where did you stay when you came back to Jacksonville on your way back from Tampa or St. Petersburg? A. Oh, I am sure I stopped at the Mayflower Hotel.

Q. Now, on your way back up, did you talk to anyone other than Mr. Wright? A. No, sir.

Q. You didn't talk to Mr. Seymour? A. Coming up to Jacksonville from St. Petersburg?

Q. Yes, sir. A. I don't think so. I went to see Mr. Seymour in the hospital but that was on a Sunday.

Q. So we can establish the day of the week here, this was on the 24th of April, was it, that you went down to St. Petersburg? A. I was there, got there Sunday night for a hearing coming up Monday morning.

Q. What day was that Sunday night? The Sunday that is closest to April 24th? A. April 24th was Sunday.

[96] Q. Then, the meeting down in St. Petersburg was on the 25th? A. The 25th.

Q. So, then, when did you come back through Jacksonville? A. Well, I spent Monday night in St. Petersburg, and Tuesday night in Lakeland, I believe. I got here either Wednesday or Thursday. I don't recall.

Q. Now, as I understand it, the first time you heard about the meeting was from Mr. Mathews in St. Petersburg, is that correct? A. On a Monday. I didn't see him on Sunday.

Q. Was the meeting supposed to have already taken place or was it supposed to be taking place in the future? A. The information he related to me was, the best I recall was that he learned that there had already been a meeting.

Q. But he didn't seem to know much about what had taken place, is that right? A. Right.

Q. When you came back through here and you talked to Mr. Wright, were you able to find out anything more about what took place at this meeting? A. Not from Mr. Wright.

Q. Did you find out from anybody else what took place [97] at this meeting? A. All I found out was that there had been a meeting and it concerned the possibility of picketing the Jacksonville Terminal.

Q. Was that the extent of it? A. That's right.

Q. Who did you find that out from? A. I believe that was from Mr. O. C. Jones, Vice-President of the Telegraphers.

Q. All right, sir. Had you received any invitation to attend any meeting here in Jacksonville on May 4th? A. No, sir. I had been left out.

Q. All right, sir. Now, did you communicate with anybody else on your way back on what was, I believe, a Tuesday night, or was it a Thursday night? A. Well, I got in here either Wednesday night kind of late or Thursday night late, whichever it was, but the following day I talked to Mr. Jones and Mr. Hadley, maybe, they are in the same office.

Q. Mr. Hadley, is that right? A. I might have talked to him that day.

Q. All right, sir. Now, at that time, did you receive any information at all as to when this picketing was supposed to be? [98] A. No, sir.

Q. At that time, did you receive any information as to what you should do, if anything, with respect to the picketing? A. No, sir.

Q. As far as you were concerned at that time, it was just a matter of information? You weren't being requested to participate or do anything in any way, shape or form, is that right? A. That's right.

Q. Now, I believe Wednesday was the 27th and Thursday was the 28th. You think it was one of those two days, is that right? A. That's right.

Q. Then, you returned back to Wilmington? A. No, sir; I went from here to Birmingham.

Q. From here to Birmingham? A. Yes, sir.

Q. How long were you in Birmingham? A. Just a day and a half, not over two days, and back.

Q. Did you have any communication from Birmingham with anybody with respect to the picketing in Jacksonville? A. No, sir.

Q. None at all? [99] A. No, sir.

Q. When was your next communication, where was it, what was it with respect to the picketing in Jacksonville on May 4? A. Well, I was back here, I guess it was on a Monday which was about May—

Q. 2nd? A. 2nd.

Q. You might just keep that calendar out. A. Looks like I might as well; and I think I communicated with Mr. Hadley and Mr. Jones' office again and through the conversation that developed that an additional meeting was being planned, as far as they knew, and then it led up through the meeting on Tuesday night, I believe.

Q. So, that was on Monday, May 2nd, right? A. Yes, sir.

Q. What brought you back here on that day? A. Well, I had things to—

My plans were to come back here anyway.

Q. You didn't receive any communication at all at any time after you left Jacksonville and went to Birmingham with respect to the pickets going up on May 4 and what your part was, if any, with respect to that? A. No, sir.

[100] Q. In other words, you just happened to come in here on May 2nd and found out it was a meeting being

planned and the picketing was being planned for May 4, is that correct? A. I inquired once I heard about this meeting, and I think I was just overlooked, I understand, the General Chairmen of all the crafts they thought had been invited.

Q. This would include you, is that right? A. Yes, sir.

Q. But you just coincidentally happened to be in Jacksonville on May 2nd, is that right? A. No, sir. No. I had business in Jacksonville other than this.

Q. But did this picketing of May 4 have anything to do with your being in Jacksonville on May 2nd? A. No, sir.

Q. Nothing at all? A. No, sir.

Q. So far as the picketing in Jacksonville on May 4, your visit here to Jacksonville on May 2nd was just coincidental? A. Routine business.

Q. And you were surprised to find out that this thing was so close in, was that right? A. That's right.

If Mr. Mathews hadn't mentioned it in St. Petersburg, [101] I would have—

Q. —missed out on all of it? Missed out on these charges that are being made against you? A. Yes.

Q. Now, Mr. Groves, who did you first communicate with and what was the communication on May 2nd when you coincidentally arrived back in Jacksonville? A. I think I talked to Mr. Jones, either—

Q. Mr. O. C. Jones? A. Yes, sir. Either at the Mayflower Hotel or at his office, I don't know exactly.

Q. Did you just happen to run into him coincidentally? A. I frequently run into him around the Mayflower dining room.

Q. Is that what happened on this occasion? A. If that is where I saw him, yes.

I had no scheduled meeting with him, anyway.

Q. Is that the way you did see him on this occasion?

Mr. Milledge: I believe he interrupted the answer.

Mr. Towers: I didn't mean to interrupt you.

Did you complete your answer?

Mr. Milledge: Is Mr. Jones with your organization?

[102] The Witness: No, sir.

By Mr. Towers:

Q. Let's see if we can establish where you first came into communication with Mr. Jones on May 2nd. A. I was around to his office either May 2nd or May 3rd, I don't know which.

Q. You actually called on him in his office on May 2nd or 3rd, Monday or Tuesday, is that right? A. That's right.

Q. But the nature of these calls had nothing to do with the pickets on May 4th? It was just routine business, is that right? A. Well, up until the meeting on May 3rd, I didn't even know who was going to do the picketing, whether it be the non-op—the non-ops had been picketing a long time, as you well know.

Q. Up until May 2nd, when you happened to see Mr. Jones on something entirely unrelated to this picketing, you didn't even know there was any picketing planned for May 4th? A. I didn't literally know it until the night before.

Q. If you didn't know it literally, did you know it any other way? A. No, I didn't know it any other way. I had an idea. There were a lot of rumors flying.

[103] Q. You did go to a meeting, did you not? A. Yes.

Q. That was on the night of May 3rd? A. Yes.

Q. Mr. Moore was there, was he? A. That's right.

Q. Mr. Wright was there? A. That's right.

Q. Mr. O. C. Jones was there? A. I am not sure.

Q. Mr. Hadley was there? A. I am not sure.

Q. Mr. Schiech there? A. I don't know him by name.

Q. Mr. Jenkins? A. I am not sure whether he was there or not.

Q. Mr. Smart? A. I don't know him.

Q. Mr. *Bowland?* A. I don't know him.

Q. You knew Mr. Moore, didn't you? A. Not at that time, no, sir.

Q. You didn't know him on May 2nd? A. No, sir.

[104] Q. May 3rd? A. I met him over in the hall at the courtroom the next day, introduced myself to him.

Q. You met him out in the hall of the Federal Building, did you? A. Yes, sir.

Q. You never had seen him before that? A. Never had heard of him.

Q. You, of course, had seen him at the meeting the night before, had you not? A. That's right.

Q. He presided at the meeting, did he? A. He had something to say, the best I recall.

Q. Well, who did preside at the meeting? A. Two or three that talked, but the best that I recall, he was never introduced.

Q. Who were the ones that talked? A. I think he talked.

Q. Mr. Moore? A. Mr. Moore.

Q. All right. Who else? A. Mr. Milledge.

Q. Mr. Milledge? That is the attorney here in this courtroom? [105] A. That's right.

Q. Who else? A. I believe there was another one.

Q. Mr. *Rutledge?*

Mr. McAlliley: We could save you a lot of time.

By Mr. Towers:

Q. Did they all talk at this meeting? A. I believe so.

Q. Was the picketing for the next day planned at that time? A. I don't know whether it was planned at that time. It was announced that they intended to picket.

Q. It was announced at that time?

All right, sir, what, if anything, were those present requested to do with respect to the picketing? A. Well, I believe it was suggested by someone, that those who elected not to cross the picket lines to return home, and to report in as to why they wasn't crossing the picket lines. It was suggested that there be no gathering of groups around the property. We were advised the pickets would be put up at various locations, the best I recall, it didn't say how many or where or anything to that effect.

It was primarily an informational, very short [106] meeting, the best I recall, explaining that they in their opinion had complied with all of the procedures of the Railway Labor Act.

Q. All right, sir. What else? A. I believe I recall that they were advised that the Florida East Coast management had attempted to put in effect a so-called yellow dog contract or something to that effect, and that the employees were not willing to work under that agreement, and that was the result of their leaving the service.

Q. What else? A. I believe that is about it, about the gist of it.

Q. You say it was a very short meeting. How long would you say it did take? A. Oh, I'd just guess fifteen or twenty minutes.

Q. And it was held at the George Washington Hotel? A. That's right.

Q. Let's go over these things, one by one, if we can. As I understand, it was discussed if they elected not to cross the picket line, they were to return home, is that right? A. That's right.

Q. Now, let's kind of get who these are, and how they were to know they were supposed to return home, and that [107] sort of thing. I assume when you say if they elected not to cross they were to be instructed to return home, we are talking about the employees of Jacksonville Terminal, is that right? A. It was suggested that they at least not stay around the entrance to the property.

Q. Who was supposed to suggest this to them? A. Well, that's—as far as I know, that is the policy of all the organizations. That is standard procedure.

Q. But who was supposed to advise the fellows on May 4, the employees of Jacksonville Terminal that if they elected not to cross the picket line, they were to return home? A. Oh, I think it was suggested at this meeting. I don't know who made that suggestion, whether it was one of the attorneys, or who.

Q. I am more interested in who was supposed to tell them this, not who made the suggestion that they be told this. Who was the one that was supposed to tell them this? A. I assume the ones at the meeting and their local representatives.

Q. In other words, people at the meeting were instructed to be out there on the line the next day to instruct the employees as they showed up? A. No, sir.

[108] Mr. Milledge: Instructed is an objectionable word.

Mr. Towers: All right. If you want to object to my use of this instruction, that is all right, but I will ask my questions.

By Mr. Towers:

Q. Now, Mr. Groves, were you instructed at this meeting to give any instructions the next day yourself? A. No, sir. We were not instructed to do anything.

Q. You used the term when I asked you what went on at this meeting, the first thing you told me, and I wrote it down word for word, you said if they elected not to cross, they were to be sent home. A. That was suggested.

Q. All right. Was it suggested that you be out there and suggest to them that if they elected not to cross the picket line they should return home? A. No, sir, that was not suggested.

Q. It was not suggested? A. No.

Q. What was done with it if it wasn't an instruction and it wasn't a suggestion?

What was it?

Mr. Milledge: I object. The question asked [109] was he instructed to be out there or advised or requested or some other word to be out there.

Mr. Towers: What is your objection to my question? Make it and let the Court rule on it.

Mr. Milledge: It isn't a correct recitation of what he has already testified to.

Mr. Towers: All right. Would you go back and check the record as to what he has testified to.

The Court: If you gentlemen would like to quit submitting your objections to each other and—

Mr. Towers: Your Honor, I'd like to conduct my cross examination.

The Court: I will overrule the objection.

I don't think the witness is having any trouble.

Mr. Towers: I think he is doing all right.

By Mr. Towers:

Q. Now, Mr. Groves, whether it's an instruction, whether it's a suggestion, or whatever you want to call it, I want to know who said what at this meeting that applied to you that led you to do anything the next day. [110] A. The only thing at the meeting that was said, we were advised—

Q. Advised, you were advised to do what? A. We wasn't advised to do anything.

Q. You were just advised? A. We were advised that the Railroad Trainmen planned to put up pickets. That is the advice that was given out.

Now, the Railroad Trainmen don't instruct our organization what to do, and we don't instruct any others. There was no instructions given in any respect in that light. Now, any time a strike is called or picket lines are put up, we suggest to our people—

Q. Who is "we"? A. Brotherhood of Railway Clerks.

Q. Who is "our people?" A. The members of the Brotherhood of Railway Clerks.

Q. All right. A. We suggest not to hang around entrances to the property, public sidewalks, seats, and things like that. If they were going in to work, of course, go on in; if not, we suggest that they leave the scene of the picket line or wherever the strike or whatever it may be is being conducted.

Q. This is what is done if your Brotherhood is picketing with respect to members of your Brotherhood when [111] they show up at work, is that right? I understood you to say we, and I asked you, and you said "Our Brotherhood." A. If our Brotherhood was picketing, the same thing would apply.

Q. You referred to this meeting as an instructional meeting and that is why I used the word instructional meet-

ing. A. I don't recall it as being an instructional meeting. Nobody there had any authority to instruct another union what to do.

Q. What I would like for you to tell me, and I want you to choose any word that you wish, whether it's a request, an instruction, a suggestion, or any other word that you want to use, what was it that caused you to be out on the line the next morning telling people, as you say, that if they elected not to cross the picket line, they should return home? A. Because that is the policy of our Brotherhood of Railway Clerks.

Q. All right; but that wasn't responsive to the question. The question was, what was it that caused you to do this, a suggestion, a request, an instruction, an order, a plea, whatever you want to call it? A. The fact that a picket line was set up. I was called after the pickets were put out. I was not there when [112] the pickets were stationed.

Q. Well, now, the pickets weren't called May 3rd, were they? A. I think that was the morning of May 4 that the pickets went out in the morning.

Q. You were at the meeting on May 3rd, weren't you? A. That's right.

Q. And you say you were not called before the pickets went up? A. I think your question—I understood your question about me being down at the Terminal at the picket line, was it not?

Q. That was one of my questions. A. That was not on the 3rd.

Q. The picket line went up on the 4th? A. Right.

Q. As I understand it, you said you were not called before the picket line went up and asked to do anything, is that right? A. No, sir, I didn't say that. I had been to this meeting the night before.

Q. What were you, either asked, suggested, ordered, instructed, pled, whatever it was, what was it that you did the next day with respect to having gone to that meeting the night before? [113] A. By having gone to the meeting the night before, I knew that unless plans were changed that pickets would be put up sometime during the night.

Q. Nothing was said at this meeting at all in the nature of a request that you be out on a picket line the next day and do anything, is that right? A. No, sir.

Q. Nothing at all? A. Nothing at all.

Q. When was the first time that anything was said that caused you to go out on the picket line the next morning and who was it that said it and what was it they said? A. I decided that myself, that if the pickets went up, then, I thought it would be my duty to go down, as I did, the following morning. That was my decision.

Q. Nobody asked you to do this? Nobody suggested that you do this? I think you used the word suggested—nobody instructed you to do it? A. No, sir.

Q. I see. You just heard about it and you decided that is where you were going to be? A. That is where I went, yes, sir.

Q. Did you see other members who had been present at the meeting the night before also there? [114] A. Yes, sir.

Q. Was anybody else requested to be there that night on May 3rd? Was anything requested that you be at this station and you be at that station? A. No, sir.

Q. It was announced on May 3rd where the pickets would be put up, was it not? A. (No response.)

Q. That was Item No. 4 that you testified to a little while ago. A. I don't think it was announced where the pickets would be put up, no, sir.

Q. Just to make sure that we get straight what I think your testimony has been—

We have covered this first part, that is that you were advised to tell them if they elected not to cross the picket line they should return home. I think we have covered that one. A. That was suggested.

The Court: It is a conservative understatement that you covered it.

Mr. Towers: Yes.

By Mr. Towers:

Q. No. 2, that they were to report in to their employer [115] why they were not crossing it. This was discussed at the meeting of May 3rd, was it not? A. Sometime during it.

Q. Sometime during the meeting of May 3rd? A. It was discussed.

Q. Why were they told to report that they weren't going to work? What excuse were they told to give? A. Somebody, whoever was talking, said it was because there was a picket line up and they elected not to cross the picket line.

Q. Was it suggested or mentioned at any time at this meeting that they might call in and say, "I am afraid to cross the picket line?" A. No, sir, I don't recall anything like that.

Q. On any discussion at that meeting that these employees be called and give that excuse as a reason why they weren't reporting for work? A. No, sir.

Q. The only reason that was discussed at the meeting was that they were to call in and report the reason they

were not at work was because there was a picket line up, is that right? A. That was suggested.

Q. Well, let's go to the third thing that I noted, if you please, that there should be no gathering of a group, [116] in other words, large number of employees would not be allowed to gather on the streets, was that discussed? A. That was discussed and recommended that they not gather in groups.

Q. Now, the only person that you knew about these were just the people that were present at the meeting that night at the meeting? A. That's right.

Q. How was this word to be imparted to all of these other employees that they were not to gather? A. Well, it could be done by telephone. I don't know just what remedy was used. Probably some of them could have called a meeting. I don't know.

Q. They were going to call a meeting between this meeting on the night of the 3rd and when the pickets went up the next morning at 3:00 o'clock? A. I didn't say anybody was going to call a meeting. I was just suggesting how it could have been done.

Q. In other words, this was not a suggestion or instruction or a request that there be no gathering of people out there, and for these representatives at that meeting on May 3rd, to see to it that there was no gathering of employees next morning, is that right? A. Read it back, will you?

[117] The Court: What he is really asking is, is this just your own idea about how the word would be spread or did someone at the meeting suggest the machanics of how the word would be spread.

The Witness: I don't know. You see, once the meeting broke up, the people that were suggesting it, there were a number of them that hung around, milled around, talked around themselves. Somewhere along the way, some of them said they would call some key people. Nothing was ever said about any further meeting, but in answer to your question as to how that was going to be done, there was no set way about how it was going to be done. Different groups, small groups, it's entirely possible they could have maybe arranged a meeting the same night. I didn't hear of any arrangement.

Q. At this meeting of May 3rd, was it suggested by anybody as to what the mechanics should be for seeing to it that groups should not gather, groups of employees did not gather on the street? A. Just leave, that is all. That is all the mechanics I know could be used.

[118] Q. Well, who was to get the word across to these gathering groups, you are not to gather here, either cross the picket line or go home? A. I don't know that anybody was supposed to do that. People generally when they come down a picket line, if they elect not to cross it, generally they leave anyway. That is my understanding.

Q. That is your understanding? A. That is my understanding.

Q. You are not prepared to tell us what the mechanics were insofar as they grew out of this May 3rd meeting to bring about this no gathering of employees the next morning? A. Right.

Q. You are also not prepared to tell us what the mechanics were to get the message across to these employees when they reported that if they elected not to cross the

picket line, they were to return home? A. No mechanics. They were putting up picket lines—each organizations has its own policy, I presume.

Q. All right, sir. Now, I have got here that it was discussed the various locations where the pickets were to be put up. A. It was not, no, sir, and I don't think you will find that in my testimony.

[119] Q. You didn't tell me a little while ago at the very first when I asked you what took place at that meeting that one of the things that were discussed was that people were to be put up at various locations? A. Pickets were to be put up at various locations but no specific locations, and the reason I say that was in the hearing the following day, the number of pickets that was brought out to be down there was a whole lot more than what I saw. The only ones I saw was right there on the front.

Q. Let's go into what you did after the meeting. Can you tell us about what time that was? A. Oh, I don't know—between 8:00 and 9:00, I suppose.

Q. Tell us where you went and what you did? A. I went back to the Mayflower Hotel.

Q. Did you go to bed early or did you do some more meeting after the meeting out there? A. I don't think I left the hotel the same night unless it was to go down and get a cup of coffee. I'm sure that I didn't.

Q. Did you have any communication from the hotel or in the hotel with respect to the activity for the next day, this is after the meeting? A. I don't recall that. Mr. Wright was there.

Q. In your room? [120] A. In my room. I think Mr. Mathews probably—of the Telegraphers—was in my room for a while.

Q. Who else? A. I believe that is all.

Q. All right.

Did the three of you have a meeting after the meeting, so to speak, to make plans? A. No, sir.

Q. Did the three of you, Mr. Wright and Mr. Mathews and you discuss anything about the activities for next day? A. Mr. Wright and I did.

Q. All right. What was that discussion? A. Right along the lines of my previous testimony that those who elected not to cross we thought should leave and go back home or elsewhere, not congregate around the property.

Q. What else was discussed at that three-man meeting? A. Oh, I think Mr. Wright and I talked about when the pickets—if the pickets did go up, that I would go down to the scene of the picketing as well as he.

Q. Was that the first discussion by anybody that you know anything about of your presence at the scene of the picketing? A. I believe so, yes.

Q. In other words, nothing at all was said at the big [121] meeting earlier that evening about you being at the scene of the picketing? A. No, sir, I don't recall.

Q. At the big meeting, did you learn that it was to start at 3:00 o'clock the next morning? A. No, sir, I think they announced that it was 5:00 o'clock or 4:30.

Q. 4:30 or 5:00? A. Yes, sir. It certainly wasn't 3:00 o'clock.

Q. Now, when you and Mr. Wright and Mr. Mathews got together afterwards, that is when it was discussed that you should go down to the scene of the picketing? A. I decided that. Mr. Wright and I. Mr. Mathews, he doesn't have anything to do with our organizations.

Q. Mr. Groves, what was the purpose of you going down to the scene of the picketing the next day? A. To advise

anyone who was not familiar with the policy of the Brotherhood as to what our position or what our Brotherhood policy is in connection with picket lines.

Q. What is this policy with reference to picket lines? A. It's a Brotherhood policy not to cross a picket line of other railroad unions, authorized picket lines.

Q. Who determines whether or not they are authorized? A. Well, generally, it would be—the actual resolution does not say authorized, but that has been my [122] so-called interpretation that's been put on it. We are usually notified by the organization if we get official notice from the organization that they are setting up a picket line. Then we say that is authorization.

Q. In other words, you don't question as to why it's going or whether it should go up if you receive notice that it is going up that is good enough for you? A. Well, we generally get word from the Grand Lodge that it has been authorized.

Q. Did you receive notice that this particular picketing had been authorized? A. Yes, sir.

Q. I see. Now, when you say your purpose of going out on the line the next morning was to advise anyone in your Brotherhood that was not familiar with the policy what it was, which is, to-wit, not to cross another union's picket line, is that right? A. Yes, sir.

Q. Another Brotherhood picket line? A. Yes.

Q. Now, is that why you went out there the next morning? A. Yes.

Q. Where did you go and when did you go and who was with you? [123] A. I went down there by myself.

Q. Where? A. To the Jacksonville Terminal Company.

Q. All right, sir. A. And I went on Bay Street, just in front of the restaurant there, and I walked farther down

Bay Street, I don't know the name of the street, but down there about where the baggage and mail employees go in.

Q. Did you walk down the north side of Bay Street or the south side? A. The side opposite where the pickets were.

Q. In other words, if the Terminal is on the south side of Bay, you were on the north side? A. Yes.

Q. And when you say the restaurant, you mean the restaurant that is across from where automobiles drive into the Terminal to let passengers out? A. Two restaurants.

Q. That is where you went? A. Yes.

Q. After you got there, you walked west down Bay Street on the north side of Bay Street down towards where the Post Office Building is, is that right? A. In that territory.

[124] Q. Between the restaurant and a point opposite the Post Office is a parking lot for employees there, is that right? A. I think that is right.

The Court: Are you going to be a while longer with this witness?

Mr. Towers: I don't think so, Your Honor.

By Mr. Towers:

Q. Now, that parking lot there has got a sign, "Parking for Terminal Company Employees only?" A. I am not familiar with any sign on it.

Q. You are familiar with the fact that there is a parking lot between the restaurant and a point across from the Post Office, is that right? A. Yes, sir.

Q. On the north side of Bay Street? A. Yes.

Q. Now, did you notice any cars come in there and park while you were standing there? A. I believe I saw one.

Q. You saw one come in and park? A. Maybe one or two, I am not sure. I don't recall.

Q. You didn't see but two cars come in there and park in that lot the whole time you were there? [125] A. I am not sure I saw two. I think maybe I saw one or two but no more.

Q. What time did you go down there? A. It was—I got there about a quarter of 5:00, I guess.

Q. One point you said if they—if the pickets went up, that you were going to go down there, I think this was in your conversation with Mr. Wright after the meeting. When did you definitely find out that pickets were up? A. I was called the next morning.

Q. What time? A. Oh, I'd say about 4:15.

Q. And who called you? A. Mr. Wright.

Q. What was the nature of that conversation? A. He told me that he had been out and that pickets had been put up at the Jacksonville Terminal Company.

Q. And so, you immediately got up, dressed, and went on down? A. I got up, shaved, dressed, and walked down.

Q. Walked from the Mayflower Hotel down there? A. Yes, sir.

Q. Was Mr. Wright down there when you got there? A. Yes, sir.

[126] Q. Whereabouts was he when you arrived? A. He was about the corner near there.

Q. Where the restaurant is? A. Where the restaurant is, the best I recall.

Q. Did you see the pickets out there then? A. Yes, sir.

Q. And they were patroling on the south side of Bay Street, were they, on the sidewalk adjacent to the Terminal? A. They were on the south side.

Q. And across the different lines into the parking lot for the Terminal for passenger parking in front of the Terminal? A. That's right. They were on that side.

Q. Now, at the time that you got there, did you see any employees who were reporting for work? A. There were a lot of employees there. Some of them were reporting, I'm sure.

Q. Where were the employees that you saw when you arrived? A. There were a few there in front of the restaurant from the liquor store down to the corner.

Q. Did you engage in conversation with any of these? A. I talked with the first one, I believe I talked with, was Mr. Wright.

Q. Now, this is still quite early in the morning, is [127] that right? A. About a quarter of 5:00.

Q. Quarter of 5:00? 4:45 or 5:00? First conversation was with Mr. Wright? A. I believe so.

Q. What was the nature of that conversation? A. Said good morning.

Q. All right. Did you all discuss anything about what you were going to do that day? A. No, sir. About that time some of the clerical employees showed up, and we all went in the restaurant and had coffee, and one or two of them had breakfast.

Q. Did you have a conversation with any of these clerical employees at that time about the picket line, what they should do with respect to it, or anything of that sort? A. Well, the one that was there then, they had already reported and found the lines before I got there, and they said they did not care to cross the picket line so I said, well, I suggested going on back home, and either stay home or leave word where you can be located because if an in-

junction is obtained or anything, the minute the pickets come down, somebody ought to know how to get in touch with you.

Q. They just volunteered the information that they [128] didn't care to cross the picket lines? A. Yes, sir.

Q. You didn't ask any of them, "What are you going to do about that picket line?" A. No, sir.

Q. None of them asked you, "What should I do about this picket line?" A. They knew what to do.

Q. I see. They didn't need to ask you, is that right? They knew what to do, is that right? A. That's right.

Q. Was this first group that you encountered then in the restaurant older men or were there any younger employees in that group? A. I'd say they were a pretty seasoned group.

Q. What would seasoned be, in your opinion? A. Oh, several years of service.

The Court: Mr. Towers, it's ten after 11:00. We have been in session now over two hours and we are going to quit at midnight, so let's take a little rest now.

We will take ten minutes.

(Brief recess.)

[129] *Cross Examination by Mr. Towers:*

Q. Mr. Groves, I understand it, this first group of what you referred to as seasoned employees, you talked to— A. Yes.

Q. I am interested in your comment in response to my question, what did you tell them to do, with respect to the picket line, you said, "They know what to do." A. Yes, sir.

Q. Do you remember that answer? A. Yes, sir.

Q. You mean they know not to cross it? A. They know what the Brotherhood policy is. There have been a lot of questions with the picket the firemen had just prior to this.

Q. They know what to do, not to cross it? A. That's right.

Q. They know they are liable to get hurt, if they do? A. Some of them think that.

Q. Some of them do sometimes, don't they? A. I don't know of any incident of railroad picket line. I know there have been incidents where people have got hurt in some picket lines.

Q. You don't know of any instances in the East Coast [130] line strike where families or men got hurt? A. No, sir.

Q. You don't know of any incidents that have taken place or that you have heard of, incidents that have taken place?

Mr. McAlliley: I object, this picketing, it is clear, has been quite peaceful.

Mr. Towers: That is one man's opinion.

Mr. McAlliley: May I—

Mr. Towers: Go on, make your objection.

Mr. McAlliley: Certainly, what Mr. *Shike* was doing was asking people to go home, keeping people out of the area where there were pickets. He was just going and talking about something that happened somewhere else, and it seems to me just an attempt to put an issue in this case that doesn't belong. These facts don't want it.

The Court: Mr. Shike?

Mr. McAlliley: Mr. *Cross.*

The Court: Well, I will put it this way, I think what you are asking is as a follow-up to testimony adduced. I think it has been adduced about three times around the track, let's not pursue it.

Mr. Towers: All right, Your Honor.

[131] *By Mr. Towers:*

Q. Mr. Groves, how many men would you say you talked to all told that morning, employees of the Jacksonville Terminal Company? A. I estimate about 30.

Q. And over what period of time was this? A. From about 4:45 until about, I think, I left down there about five minutes past 8:00.

Q. Did you go back past after five minutes past 8:00? A. No, sir.

Q. Did you stay continuously from a quarter to 5:00 until five minutes past 8:00? A. Yes, sir.

Q. Did you police the entire area from the restaurant to down to the point down to the Post Office and back again? A. It's a good ways down there. I wouldn't say the entire area from the restaurant there down, just about to where the baggage and mail group goes in.

Q. How many times would you say you walked down there and back during this two and a half hour and three-quarter period of time, whatever it was? A. Twice.

Q. Three hours, sir? A. Twice.

Q. All right. All during that time, you think you [132] talked to about 30 people? A. I would estimate about 30.

Q. All members of your Brotherhood, that is, of Clerks? A. Ones I talked to in conversation; yes, sir.

Q. Did you talk to any of the postal employees? A. No, sir.

Q. Any of the ones that belong to any of the postal unions, brotherhoods? A. Not that I know of.

Q. You didn't say anything at all to any of these people? A. No, sir.

Q. As I understand it, you know a Mr. Altman? A. Yes, sir.

Q. Do you recall that he came up to you and approached you that morning when he got to work? A. I think he approached me coming out of the restaurant.

Q. You were coming out of the restaurant and he was walking towards you? A. No, he was in the restaurant, the best I recall.

Q. He was in the restaurant and he was coming out of there, and you were approaching the restaurant? A. I was going down to the sidewalk, Mr. Wright and I.

Q. You were walking toward the restaurant? A. That's right.

Q. That is the first time you saw Mr. Altman that [133] morning? A. I believe I saw him go in the restaurant, I am not sure.

Q. Was this the first time you engaged him in any conversation? A. Yes, sir.

Q. Do you think it is possible you saw him walk in the restaurant, and at that time, you didn't engage in any conversation? A. I don't think so.

Q. The first time you approached him, he was coming out of the restaurant? A. On the street, just outside of the restaurant.

Q. Do you remember telling him at that time, "You see what is going on here?"—or words to that effect? A. I think he asked me what was going on or, they have pickets up there, or something to that effect.

Q. Go ahead. A. And I said, "Yes, they have got picket lines up here. It is an authorized picketing and the policy of our Brotherhood is not to cross picket lines, but it is up to you whether you do, that is your decision to make," and he intimated that he didn't care to cross the picket line, and then told me that he had gone through the previous picket line of the firemen, because he did not see any pickets. [134] I had knowledge?—I had no knowledge of this previous incident, up to this time, and he voluntarily said this.

Q. All right, sir.

Do you recall he asked you at that time what would happen if you—he did go through? A. No, sir.

Q. Do you recall at that time making any statement to him to the effect that if anyone goes through this line, they are liable to get hurt, suffer bodily harm, or suffer property damage? A. No, sir.

Q. Did you use any words to that effect? A. No; I made no statement like that.

Q. Was there any reference made at all by you or Mr. Altman that morning with respect to anybody being hurt, their families being hurt in any way, shape or form by going through a picket line? A. No, sir; I don't even know if that boy has a family or not.

Q. Mr. Groves, isn't it true that you would beckon these fellows over to you and they would get out of their cars on this parking lot or when they would start walking toward the terminal, you would beckon? A. I might have motioned to one of them, I don't [135] recall. I think I did. I don't recall which one.

Q. Could it have been Mr. Altman? A. I don't think so. No, sir.

Q. Would it have been Mr. Buchanan? A. I don't know him.

Q. Do you know— A. By name.

Q. Do you know Mr. Boyd? A. That name rings a bell, I can't place him by the name. I don't know very many of the employees personally.

Q. Do you know Mr. Wiggins? A. I think I know Mr. Wiggins.

Q. Is it possible you beckoned him over to more than one of these employees? A. It is possible.

Q. Well, as a matter of fact, weren't you there to beckon them to you and let them know that picket line was up there? A. No, sir; most of them would come by the restaurant anyway, before they go to work to get coffee.

Q. As I understand it, you feel competent you beckoned to one, and you might have beckoned to more than one? A. That's right.

Q. Whas was the purpose of beckoning them over to you? [136] A. One of them, the best I recall, he had already parked and I asked him if he saw the pickets and he had not. That is one that parked in the front parking lot.

He said that he had not seen the pickets, and then, once he saw the pickets,—well, then, he was aware of what the Brotherhood policy is.

I don't recall some of them, some of them went to work. I think I know Wiggins, he's a ticket officer, I believe.

Q. Some of them you talked to went to work? A. I think so.

Q. Do you know their names? A. No, sir; that is their privilege.

Q. All right, sir.

Now, the extent of your conversation with any of these you beckoned over, was to ask them if they had seen the picket line; is that right? A. Or if they were familiar with the Brotherhood policy.

Q. Did any of them say, "What is the policy"? A. Yes. There was one or two.

Q. What did you tell the ones that asked you that? A. Just what the Grand Lodge Resolution says the policy is, the policy is not to cross an authorized picket line.

[137] Q. None of them went any further than that, to ask what would happen if they did, or what would happen— A. No, sir.

Q. Some did cross it? A. That was not mentioned by me or anyone else, and there were a good many people down there from other groups, I don't know personally those.

Q. Your testimony is that there at no time that morning, on May 4th, did you ever discuss with anyone the subject matter of someone being harmed, being harmed bodily, physically, harm to them or their families, or them suffering any property damage because of someone crossing the picket line; is that right? A. That is right.

Mr. Towers: That is all we have, Your Honor. We would like this witness not to be excused, if we may.

The Court: All right.

You are to remain in attendance, they may want to recall you at some later time.

Redirect Examination by Mr. McAlliley:

Q. How many employees does your organization represent at the Terminal Company? A. Well, it is in the vicinity of 300, I would say.

[138] Q. Is that more than any other craft on the Terminal Company? A. I would think so. I don't have the figures on the others. I would feel like that it was the largest group. It is generally on most railroads.

Q. Was it practical for you and Mr. Wright to call 300 people on the night of May 4th? A. Not at 20 cents a call from a hotel. It would be impractical anyway. We don't have their phone numbers.

Q. Now, how do you—how did you get to hold the job you are presently holding in the Brotherhood? A. I was elected by the members of the Systems Board of Adjustment, composed of the local chairman of all lodges on the Atlantic Coast Line Railroad, and the Jacksonville Terminal, consisting of 25 or more members.

Q. How many members are there all together that you represent? A. About 2600.

Q. And is one of your duties to give your members advice? A. Yes, sir.

Mr. McAlliley: That is all we have.

Mr. Towers: No further questions.

The Court: For the moment, they have finished questioning you, Mr. Groves, but as I say, be [139] prepared to be called back later, if they wish. We are going to recess in a half hour, and after that, if they are going to call you back, it will be at 9:00 o'clock in the morning.

Mr. Towers: Where are you staying?

The Witness: The Mayflower.

Mr. Towers: What room?

The Witness: 1022.

(Witness excused.)

CARL H. WRIGHT having been produced and first duly sworn as a witness, testified as follows:

Direct Examination by Mr. McAlliley:

Q. Would you state your name, please, sir? A. Carl H. Wright.

Q. And where do you live, Mr. Wright? A. 1099 North Edgewood, Jackson.

Q. Jacksonville, Florida? A. Jacksonville, Florida.

Q. By whom are you employed? A. The Jacksonville Terminal Company.

Q. Do you have any official capacity with the Brotherhood of Clerks? [140] A. Yes, sir.

Q. What is that capacity? A. I am president and local chairman, that is local chairman of Local 1014.

Q. Now, prior to the pickets being put up on the Jacksonville Terminal property May 4th, 1966, did you attend a meeting in which I was present and Mr. Ray Moore was present concerning that picketing? A. Yes, sir.

Q. And did you attend one meeting or more than one? A. Normally, one meeting.

Q. Was that on the evening before the picketing? A. Yes, sir; that was the evening before.

Q. And at that meeting, was it explained to you that picketing would occur?

Mr. Towers: Just a minute. I think the question should be restricted—I object on the grounds that it is a leading question.

The Court: Sustained.

By Mr. McAlliley:

Q. What did you understand the purpose of that meeting to be? A. I was called in and asked if I would attend. I

didn't have any idea what it was until I got up there and it was explained to us that there would be a picket line put [141] up some time or other.

Q. All right.

Now, on the following day, were pickets put up around the property of the Jacksonville Terminal Company? A. Yes, sir; they were.

Q. And when did you receive word that they would be put up? A. Approximately 3:30 in the morning.

Q. All right; and by whom were you notified? A. Let me think of the name now. That was on duty—of the train clerks, Turner.

Q. Train Clerk, is he a member of your organization? A. Yes.

Q. And he was on duty at that time? A. He was on duty at the time; yes, sir.

Q. What did you do? A. I got up. Well, I got dressed and about—oh, it must have been approximately 4:30, I went on to the station.

Q. All right, and why did you go down there? A. Well, I am on duty at 6:00 o'clock, and I usually go in somewhere around 5:30 to 5:40, so I just went on a little earlier to see if it was true they were pickets up.

Q. Did any of the men who you represent go to work after the picket lines went up, to your knowledge? [142] A. Yes, sir; they did.

Q. Do you know how many that was? A. No, sir; I don't offhand. I don't have—

Q. Did the majority of your people honor the picket lines? A. It appeared to me they did.

Q. Now, do you know or do you have any member named Altman? A. I believe his name is—

Q. I believe his name is Morris Altman? A. Yes, sir.

Q. Did you see him on Bay Street on the morning of May 4th? A. Yes, sir; he came out of the restaurant and walked up to me.

Q. And do you know about what time that was? A. I would—it must have been around 7:00, 7:15, the exact time, I don't know.

Q. Do you know what time you were scheduled to report to work? A. 8:00 o'clock, he told me.

Q. Now, let's go back. What time were you supposed to report to work? A. At 6:00 o'clock.

Q. Did you report to work? [143] A. I was there available to go on, yes, sir; go on duty.

Q. But you didn't? A. I didn't; no, sir.

Q. Why not? A. Well, there was a picket line, the Brotherhood of Trainmen threw up, and I did not go across the line.

Q. Now, did you have a conversation with Mr. Altman or was there a conversation in your presence with Mr. Altman? A. Yes, sir; there was.

Q. And was Mr. Groves a party to that conversation? A. He was, the two of us were together.

Q. And where did that take place? A. Right in front of the restaurant across the street from the station.

Q. Now, for how long has Mr. Altman been employed by the Jacksonville Terminal Company? A. I don't know—I don't recall exactly offhand, four years, something of that nature, I presume.

Q. How did the conversation with Mr. Altman come about? A. He came up to Mr. Groves, and I asked if that was the trainmen's picket line, something of that, the best I recall, and I told him it was, and he said, "Well, I am not going to cross it."

[144] So I said, "When are—" what I asked him was when he was due on duty, and he told me 8:00 o'clock, and I said, "If you do not cross the line, don't stay around the station, leave."

Q. Why was it you gave him that instruction? A. I didn't want any trouble, didn't want them to congregate, any of my members congregate around there if they didn't intend to go to work.

Q. Now, did that subject of men congregating had it been been discussed at the union meeting, to your recollection? A. I don't recall that part of it, no, sir; I don't.

Q. Have you related everything that you recall about that conversation with Mr. Altman? A. Yes, sir; to the best of my knowledge, I have. It was very brief.

Q. And after the conversation, what did Mr. Altman do? A. As far as I know, he went to his car and went home. I didn't see him any more.

Q. Now, how long—let me ask you this: Was there any conversation with Mr. Altman about any one being harmed or any property being damaged? A. No, sir; there was not.

Q. How long did you stay out on Bay Street? A. Actually, approximately 8:15, when the last of my [145] members were due on duty.

Q. Now, did you have any conversations with any other of your members, other than Mr. Altman? A. Yes.

Q. Do you know about how many? A. I would say approximately six of them.

Q. And where did those conversations take place? A. In front of the restaurant across the street.

Q. Did you stay in that vicinity? A. Yes, sir.

Q. And where did Mr. Groves go? A. He was there with me.

Q. Did he stay after you left? A. No, sir; he went—we left together.

Q. Do you know how many employees there are at the Jacksonville Terminal Company? A. No, sir; I don't.

Q. Do you know how many there are who belong to the Clerk's Organization? A. To my knowledge—to my lodge, I do. We have 92, I believe it is now.

Q. Is there another Clerk's Lodge? A. Yes, sir; there is.

Q. When you were out there in the morning of May 4, did you talk to any members of the other lodge? [146] A. Yes, sir; they were congregating. We asked them to leave, Mr. Groves and me did. If they were not going to work, not to congregate.

Q. And did they do that? A. Yes, sir; they did.

Q. Was there any trouble out there with the pickets or any of your members? A. No, sir; none with any one I know of.

Mr. McAlliley: That is all we have.

Cross Examination by Mr. Towers:

Q. Mr. Wright, you went to the meeting at the George Washington May 3rd, the night before the pickets went up; did you? A. Yes, sir.

Q. There was some 25 people there, approximately, that many? A. I would say approximately.

Q. Mr. Milledge was there; was he? A. Yes, sir.

Q. Mr. Moore was there? A. Yes, sir.

Q. Have you ever met Mr. Moore before? A. Not until today, as far as meeting him, I haven't.

Q. When is the first time you ever saw him? [147] A. I suppose at the meeting that night, I didn't know who he was.

Q. May 3rd? A. Yes.

Q. You didn't know the business of the meeting until that night? A. No, sir, the nature of it, no.

Q. You didn't know about the picket going up until it was explained that night? A. That is correct.

Q. All right, sir.

That was pretty much of an instructional meeting that night? A. I would say it must have been, apparently was.

Q. I see.

All right, sir. And did they explain how, if any of these people came and decided not to cross the picket line, that they were to be told to go on and return home? A. I don't recall whether that was explained at the meeting or not.

Q. What was explained in that particular regard with respect to having them go home and wait until they get a phone call or leave their telephone numbers, so that they could be contacted? A. Now, that part of it, I don't recall whether it [148] was in the meeting or my own thoughts for my members not to congregate.

Q. There weren't any express instructions given at the night meeting, which these fellows, when they come, to get names and telephone numbers to call later on in the day, if the picket line went up? A. Not that I know of.

Q. Do you remember some conversation at the meeting about the fact they should be told not to congregate and should go home? A. I don't recall.

Q. You don't recall any instructions of that sort? A. Not in that regard.

Q. Do you remember any instructions there at the meeting with respect to what reason they should give, what reason they should give the railroad for their not reporting to work; were they to call in and say they were not coming in because of any particular reason? A. No, sir.

Q. You don't remember any discussion May 3rd meeting what reason they were to give for not going to work that morning? A. No, sir.

Q. All right, sir.

Now, do you remember a discussion there at the [149] meeting about the fact that the pickets were to be put up at various locations? A. Yes, sir.

Q. Was the specific locations described for you as the meeting there that night? A. I don't believe specific locations were all named.

Q. Were any locations specified as being ones that would have pickets out? A. I believe the station and the mail shed was specifically mentioned.

Q. Any other spots, such as Dennis Street or Stockton Street or Acorn, or McQuade Street? A. I don't recall any of those points being mentioned.

Q. Only ones you remember is the mail shed being mentioned, and the other one you mentioned was what? A. The main station.

Q. Really, that is right across the street from where you and Mr. Groves were? A. That is correct.

Q. All right, sir.

Was there anything else that you were advised to do at that meeting that night? A. I am trying to remember now, I believe we were told if we would like, we could contact our members and tell [150] them there would possibly be pickets up during the night, but we didn't know when.

Q. Did you make any efforts to contact any of your members? A. I did, and they were not successful.

Q. You didn't get any of them at all? A. I tried three different ones. The phone numbers are not available and the three I did, I was unable to reach them.

Q. They just weren't home? A. At that time of night, whether they wasn't home or didn't answer the phone—

Q. Was it your intention to tell them the pickets would be up and there was no need for them to come to work? A. No.

Q. What did you intend to tell them? A. That pickets would be put up at the station the next day.

Q. You didn't intend to go any further than that? A. No, sir.

Q. Did you arrive at the restaurant across the street before Mr. Groves was there?

Was Mr. Groves there when you got there or where did you first see each other that morning? [151] A. I parked my car and walked around there and met him, he had just arrived.

In fact, he hadn't gotten in the restaurant when I met him on the sidewalk. He was looking for me, I believe, and I was hunting for him.

Q. You all came up there about the same time? A. He came from one direction, and we both got there at the same time.

Q. He had been at the meeting the night before? Yes, sir.

Q. You had seen him at the meeting the night before? A. Yes, sir.

Q. Did you all see each other any after that until the next morning? A. No, sir.

Q. The next time you saw him after the meeting broke up at the George Washington, was when you saw him out in front of the restaurant; is that correct? A. That is correct, early that morning.

Q. Now, there at the restaurant that next morning,—you know Mr. Buchanan; don't you?

Isn't there a Mr. Buchanan that is in your Brotherhood? A. I am trying to remember which one he is. He is [152] one of the new ones, I think. If—I am not—if I am not mistaken, he is one of my newer members.

Q. I think he was just hired this past January. A. That is what I say, I think he is one of the new boys.

Q. I think he has a little scar on his cheek, a young fellow in his early 20's? A. He worked in Mr. *Murden's* office, I think.

Q. I don't really know. Do you think you are beginning to place him? A. I don't know what to place him, if I can see him, possibly the boy I have in mind is in Mr. Murden's office.

Q. Do you recall seeing the particular one we are discussing that morning? A. He is one of the ones that came up to me.

Q. All right, sir.

This was, of course, his first exposure to anything like this? A. That's right.

Q. He was coming up to you for information, more or less, as to what to do? A. That is correct.

Q. Had he already noticed the picket line, or did you point it out to him and say, "There is a picket line up [153] there," or just what was the first exchange of words between you? A. He had already seen the picket line and looked me up.

Q. To find out what to do? A. What the policy was.

Q. Did he specifically say, "What is the policy," or did he come up to you and say, "What should I do?" A. He asked me what he should do.

Q. What did you tell him? A. To use his own judgment. I did not tell him to cross or not to go across.

Q. In the course of your conversation, there with Mr. Buchanan, was anything said by either him or you about the possibility of persons crossing the picket lines getting hurt? A. Not that I recall, no, sir.

Q. Was there anything said during that conversation with him about persons *automobiles* getting damaged who crossed the picket lines? A. No, sir.

Q. There may have been some conversation, about people getting hurt who cross them, but you just don't recall them one way or the other? [154] A. I didn't have any conversation with him in regard to that, and I don't think any one else was there with me.

Q. Who was present? A. Mr. Groves and I were together all the time over there.

Q. Sir? A. We were together all the morning over there.

Q. You were together all the morning, so when you were talking to Mr. Buchanan, Mr. Groves was there with you; is that correct? A. That's right.

Q. And what I have in mind is this, Mr. Wright, the first time I asked you about it, you said, "Not that you recalled".

I am trying to pin down whether or not something could have been said that you just don't have any recollection of one way or the other at this time; is that correct? A. No, sir; because I didn't tell any of them about anything of any trouble when and if they crossed it.

Q. What was in your mind when you answered my question a few seconds ago that you didn't recall? A. Which question was that?

Q. If, when I asked you about any conversations, about persons receiving personal injuries, crossing the picket [155] lines— A. If anyone else said it, I didn't hear it.

I know I didn't tell him.

Q. As I understand, whether or not Mr. Groves did, you don't recall, and you didn't hear it, if he did? A. He was right there with me. I don't think he did. I didn't hear it.

Q. Did you ever step away at all while talking to Mr. Buchanan? A. No, sir.

Q. Did you ever have a conversation with a Mr. Altman? A. Yes, sir.

Q. Morris Altman? A. Yes, sir.

Q. You know him better than Buchanan? A. Yes, sir; better than Buchanan.

Q. Was Mr. Groves standing there when Mr. Altman was there? A. Yes, sir.

Q. Do you remember Mr. Altman got out of his car in the parking lot and was beckoned over to where you and Mr. Groves were standing? A. No, sir.

Q. Did your beckon anyone over to you at any time during [156] the morning? A. No, sir.

Q. Did Mr. Groves beckon any one over any time during the morning? A. I don't recall him beckoning to any one.

Q. Neither one of you beckoned to any one to come over to you; is that correct? A. Yes, sir.

Q. Some walked over to you and some didn't? A. All the members didn't come by.

Q. You all didn't make any efforts at all by approaching these fellows or beckoning them over to you to enter in conversation with you; is that correct? A. That's right.

Q. If that happened—if they happened to come over, and start talking to you, that was fine, but you made no effort to bring about such a meeting? A. That's right.

Q. If Mr. Groves beckoned anyone over, you didn't see it? A. That is correct.

Q. Obviously, you would have seen it? A. Yes, sir.

Q. You know you didn't beckon anyone over? [157] A. That's right.

Q. You know Mr. Boyd? A. Yes, sir; Boyd is in Murdens' office.

Q. Do you know Mr. Wiggins? A. Mr. Wiggins is—yes, Mr. Wiggins is in the comptroller's office.

Q. Do you remember seeing those men arrive in the parking lot that morning? A. No, sir; I didn't see them arrive in the parking lot.

Q. Where was Mr. Buchanan the first time you saw him? A. He walked up to me on the sidewalk.

Q. I see. A. I really didn't know his name. I am ashamed to say I didn't.

Q. Where was Mr. Altman the first time you saw him that morning? A. He was in the restaurant. I saw him in the restaurant, I didn't go in and talk to him.

Q. You didn't see him go in the restaurant.

The first time you saw him, he was sitting in the restaurant? A. He was in the restaurant.

Q. Did he approach you inside of the restaurant or [158] outside of the restaurant? A. Outside.

Q. We talked about the conversation with Mr. Buchanan, and as I understand it, you and Mr. Buchanan didn't talk about people getting hurt by crossing the picket lines and having property damaged, and you didn't hear anybody else talking in that way at all; is that right? A. No, sir; I did not.

Q. Now, with respect to Mr. Altman, did Mr. Altman walk up to you and ask you what should be done? A. He did.

Q. All right, sir.

And did you tell him that he should wait until after his time to go to work and then go on home? A. If he was not going to work, to leave after the work time.

Q. Not to leave until after the time to go to work? A. That is correct.

Q. Now, in that respect, did you have any conversation with Mr. Altman at all about persons receiving personal injury from crossing picket lines? A. No, sir.

Q. Did you hear anybody else have any such conversation with Mr. Altman that morning? [159] A. No, sir; Mr. Groves, as far as I know, was the only two that talked to Mr. Altman, and he walked up to us.

Q. What else was said, other than the fact you told him to wait until the time his work was past, and then go home, what else was said? A. I don't recall any other conversation with him that morning.

Q. You don't remember anything else that was said by either you or Mr. Groves or Mr. Altman? A. No, sir; the meeting—I talked with him was very brief.

Q. This was all right outside the door of the restaurant; wasn't it? A. Yes, sir.

Q. Was Mr. Altman and Mr. Buchanan together at the time you and Mr. Groves talked to him? A. No, Mr. Altman came out of the restaurant alone.

Q. At the time he came out, were you talking to Mr. Buchanan? A. No, I don't believe I was at that time.

Q. Mr. Groves, was he talking to Mr. Buchanan? A. No, sir; I don't believe he was.

Q. Do you recall if he was standing around? A. I don't recall him staying there after we had had the conversation with him.

[160] Q. When you—which did you talk to first, Mr. Buchanan or Mr. Altman? A. I believe Mr. Altman was the first one there. I believe Mr. Buchanan came up after my conversation with Mr. Altman.

Q. Was Mr. Altman still standing around after Mr. Buchanan came? A. I don't remember.

Q. He may have stayed or drifted off? A. Apparently he was in the vicinity, it was before work time.

Q. Whether he was standing close enough to overhear any conversation or not, you just don't know? A. That is correct.

Q. Mr. Wright, have you been with Mr. Groves today? A. Yes, sir.

Q. Whereabouts have you all been together today? A. We have been in his room.

Q. 1022 Mayflower? A. Correct.

Q. How long have you been there? A. All afternoon.

Q. When did you first go up? A. Oh, it must have been around 2:30, I would say [161] somewhere around 3:30, and—

Q. You stayed there until you received a telephone call to come down? A. Yes, sir.

Q. Mr. Wright, is it your intentions now to honor the picket line of any Brotherhood association that has it up at the Jacksonville Terminal Company? A. That I wouldn't say until the time comes.

Q. You just decide on each one when it comes? A. And the merits of it at the time.

Q. Isn't it a policy of the Brotherhood not to cross a picket line? A. That is correct.

Q. You would, of course, adhere to the policy? A. I would use my own individual judgment.

Q. By that, you mean, at times, if your judgment is directed, you otherwise, you would not adhere to the policy? A. That is possible.

Mr. Towers: No further questions.

Redirect Examination by Mr. McAlliley:

Q. Mr. Wright, by and large to the members of your Brotherhood that are employed at the Jacksonville Terminal, do they desire to make a common cause with the FEC striking [162] employees by honoring their picket lines?

Mr. Adams: I object to that, he can't possibly answer the question. He just said it was up to each individual.

The Court: You made your objection, and it is well taken. He couldn't possibly know.

Mr. McAlliley: I might like to have him have a chance.

The Court: There is no way this gentleman can know what is in the minds of another man. He—you didn't ask what, you are asking an internal mechanism of their thinking, he couldn't possibly know it.

Mr. McAlliley: May I reframe my question?

The Court: I have sustained the objection to the question. You may ask a new question, if you like.

By Mr. McAlliley:

Q. Have the employees you represented expressed to you a desire to make common cause with the FEC striking employees by honoring their picket lines?

Mr. Adams: That calls for hearsay, it is vague and indefinite—

The Court: Just stop with hearsay. I sustain your objection.

[163] Mr. Adams: We stop.

Mr. Towers: That is all we have.

Your Honor, we don't want to excuse this one either.

The Court: All right. If you will be back at 9:00 o'clock in the morning, they may wish to ask you more questions.

According to the hour and our policy, we will now recess until 9:00 o'clock in the morning.

(Thereupon, the evening recess was then had.)

Excerpts From Testimony and Proceedings

SUNDAY MORNING, MAY 29, 1966.

(9:00 o'clock a.m.)

* * * * *

[76] Mr. Friedmann: * * * This is our court of last resort.

We have been denied jurisdiction by the Federal Courts.

We do not have a right to seek relief under the National Labor Relations Act.

We have no dispute which we can arbitrate or mediate under the Railroad Labor Act, and this is our court of last resort.

If we do not, are not granted relief here, we have no place else to go, and we will be subject to unjustified and unlawful picketing.

Mr. Milledge: I wish I could make that last statement binding.

* * * * *

[96] Mr. Milledge: * * * It's conceivable that the Taft-Hartley Act could be applicable here. We don't think it is. The question, however, on the preemption argument, which is what all this was directed to over here, that is preemption for another agency to make determination, is whether or not it is arguable [97] that it might be subject to Taft-Hartley. All of this inquiry here about Mr. Groves and Mr. Wright and Mr. Moore and his meetings in which Mr. McAlliley and I made the address is of course,— and we haven't heard any argument that is some

kind of illegal conspiracy or anything like that—what that is addressed to is because they intend to file a complaint with the National Labor Relations Board, as they have a right to do, claiming as was done in the Cape Kennedy picketing, the IBEW versus NLRB case, that the Brotherhood of Railroad Trainmen is acting for the non-operating organizations which are still on strike against the FEC.

The non-operating organization, as you will see from that Federal case, IBEW by Taft-Hartley. Just as a by-the-by, I think that decision is incorrect, but it certainly is—is correct now until it's reversed, and it certainly gives them an arguable position before the National Labor Relations Board under Taft-Hartley; and that is what all this was directed to here. In addition to that, I might point out that in the Port Authority situation down at the south end, the Port Authority which is a railroad [98] among other things, but it is a certificated railroad with the ICC charter, and is under the Railway Labor into State court, and the case fell before Judge *Tedder* in Broward County, and we removed that case, and it came back because they said they had a State cause of action, and Judge Tedder felt that the case should be dismissed; and he did so, dismiss the case. He dismissed it on the basis that railroads are arguably subject to Taft-Hartley, and that was even before IBEW.

I say, in all candor, I don't think we are, and certainly if and when they do file a complaint before the National Labor Relations Board, our first argument is that we are not covered by it, and the second argument is we are certainly doing nothing illegal

under Taft-Hartley, but that will be a question for determination by that Board—is a matter here of a question of being arguably subject to the National Labor Relations Act.

* * * * *

[116] Mr. Friedman: I merely reiterate the normal common law principles that we are here discussing to pull this case back into context. We are in state court. We contend that these defendants violate state law and seek to force the Terminal Company to violate state law. This is a secondary boycott under Federal law, and clearly it has not been contested that this is a secondary boycott . . . they do seek to force us to violate Florida Transportation Act, they do seek to force us to violate Florida Transportation law, and clearly the defendants have not contested this point in their argument. They do seek to have the defendants enter into a restraint of trade by embargoing the F. E. C. . . . They seek to unjustifiably interfere with our constitutional right to carry on business, and they seek to unjustifiably interfere with our contractural relations with our employees.

We do have a right to this injunction.

* * * * *

[133] The Court: * * * All of you are skilled in this field and will be able to present in more logical sequence and more polished form these matters to the Appellate Courts, and there is no real necessity for me to try to find the time, which is not available in the near future, to make this in written form, so this will have to suffice.

This, is, of course, not a court of last resort, so it has been called that and the Court is quite conscious this is merely a way-station. The final decision will be made by some Appellate Court, or some series of Appellate courts, elsewhere, but I shall do what I can to decide this, as best I can, the facets presented to this Court in this particular litigation.

There are many things that this Court does not have to concern itself with. The field of labor disputes become very large or have become very large in the past thirty years. Whether it is a proper subject by regulation of law, has been debated all of that time, and there is a substantial body of thought to the effect it was a mistake in the first place to start regulating labor disputes by the law and removing it from the field [134] of economic warfare to judicial warfare.

Management screamed when the Wagner Act was enacted, that no complex business companies would survive, but it managed to survive.

Labor screamed when Taft-Hartley came along, it was union abusing program, and no free men could exist any longer in society after that, but labor unions continued to exist.

So, I suppose, for the rest of our life, the forum will be in the courts or in those judicial and quasi-judicial tribunals set up along side of the courts to handle such things.

The large part of labor litigation now is in the Federal Courts, and perhaps increasingly will be there, no one knows what the trend will be, but the

Federal Courts have not occupied, and by Federal Courts I mean Federal Courts and agencies, have not occupied the entire field to the exclusion of State Courts. There is still an area in which it is not only possible for State Courts to operate, and—which it is their duty to operate. If I could see any way possible to slough off the obligation to act in this case upon some kind of Federal Court or agency, I would be willing to do so, and I don't think anyone here noticed any feeling of offense when the [135] announcement was made that this case would be removed to the Federal Court. It was a most welcome announcement, but it seems to have bounced, and here it is, and it is the task of this Court to decide it.

This is the way this Court views this particular controversy. It is true that the Florida East Coast Railway is not a named party to this litigation but the broadening presence of the Florida East Coast is felt by the Court. This is an outgrowth of the dispute that arose over three years ago, and is probably one only of many things that will grow from it before this finally is disposed of, and trampling up—tramping up the side alley just a moment, that has no part in the case, I think finally it will be disposed of, not by litigation, but by economic pressure, and when I read the newspapers, I don't think the time is too far off. But that has nothing to do with the case.

The people who work for the railroad have now, to employ this extended device to increase the economic pressure on the railroad by picketing properties of the Jacksonville Terminal Company, the

plaintiff in this case, and they announced candidly, the purpose of that picketing is to make it impossible for the Florida East Coast Railway to operate. [136] To the limited extent it has been able to operate during the last three years, and a little better, there has been no concealment of their purpose.

Counsel announced at the beginning of taking of evidence in this case, if the picketing were successful, that would be established. Counsel candidly announced that the economic impact upon the community would be profound, *be no definite use dealing with record with the opposing parties.*

Bypassing for the moment, some technical considerations, what it boils down to is the point of view on the part of the labor organizations involved that this is a legitimate extension of what they have a right to do. That the Jacksonville Terminal Company is so allied with the Florida East Coast Railway, that it constitutes but an extension of facilities of that railway. That, in effect, the Jacksonville Terminal Company works for the Florida East Coast Railway, performs such functions for it, it becomes an integral part of it, and that by putting up pickets around the Jacksonville Terminal Company, labor organizations doing—are doing no more than what has sometimes been referred to within the concept of the National Labor Relations Act as primary picketing, or sometimes called direct picketing, [137] There is no question about the fact that the Jacksonville Terminal Company is owned in the sense that its stock is owned by the railroads that use its facilities and this is no foolish argument that

is made by the labor organizations in the case. It is an argument that is seriously made and sincerely made, but if you carry it to its logical extension, then you could put up almost as good an argument that all the railroads in the United States are but one body, that they so use each other's facilities, and keep books for each other, and operate as a unit with the pooling of their cars, which may never be seen on a railroad line after they are once purchased, but may operate continuously on the lines of other railroads with their credits and I use the terms not inadvisedly, their rebates and whatever forms of accounting they use, we have one giant operation.

If the position of the labor organizations in this case should become the law, it would not be in the view of this court as a great a step logically to continue on to that ultimate conclusion, of the identity of the railroads for the purpose of labor disputes, as it is to take the step that would be required to draw the Jacksonville Terminal Company into an alter-ego relationship with the Florida East Coast Railway. Perhaps the [138] fiction of corporation separation should be abolished. This Court is not to abolish that fact, so far as the Court is able to perceive the current law, the Jacksonville Terminal Company is regarded as a separate entity. The Court is not naive in doing so, or ignoring any of the aspects advanced in the argument of making of common cause by one railroad with another, any more than the Court is naive enough to ignore the fact labor organizations are by and large engaged in making common cause with one another.

So, on the primary and principal facet of this litigation, the central and controlling point is whether the labor organizations may successfully contend there, the picketing of the Jacksonville Terminal Company facilities is no more than the picketing of the Florida East Coast Railway facilities.

As this Court conceives the law to be, this Court cannot subscribe to that argument. That being so, what the labor organizations involved in this case are doing must fall within the characterization, and I do not use the term technically, because I am aware, quite aware it belongs in the area of national labor relations Act parlance, as a secondary boycott or putting of economic pressure on someone else, which, in the eyes [139] of the Court is separate and independent for the purpose of bringing to its knees the Florida East Coast Railway.

If this was all that was going to happen, it would, in legal contemplation, and in what is today social thinking, be a legitimate exercise of the economic weapons of the Union, but it has considerably more impact than that because it is—it affects, not only the Florida East Coast Railway, but it affects the other railways that use the facilities of the Terminal Company, it affects all of the people who are served by and do business with these railways, it also affects passage of the mails which apparently affect the mails throughout Florida, it affects an entire economic area, from here to Key West, and it would offset economic strangulation of the entire state.

If the Union had a right to do it, that is the situation up with which the public would have to put. But the Union has a right to do it only if we can

look at the Jacksonville Terminal Company and see only the Florida East Coast Railway, and that, this Court, cannot do.

The Court is conscious of the precedent of the Broward County Port Authority case, but sees a clear distinction between a dispute therein which the Florida [140] East Coast Railway, was the one concerned, and the situation here, where so many other interests are affected.

The Court is aware of the fact that this is not—does not come under the National Railway—the National Labor Relations Act, with this provision of secondary boycott, but that we come in the area where the National Railway Labor Act is involved. The mere fact that Federal Law does not specifically prohibit an activity does not mean it is a proper activity.

This Court, in the field of labor relations, primarily applies Federal law, as we apply Federal law in so many, many other instances on the routine daily basis. We apply whatever law is to be applied, whether Federal or State, sometimes local law. The Federal agencies, have not occupied the field yet, and perhaps they never will, to the extent there is not a legitimate scope for operation of the law applied by this Court.

The Court cannot subscribe, as yet, to the theory that in the decision by the Fifth Circuit Court of Appeals, in what may be termed the companion litigation in the Federal Court, that there was a clear distinction prohibiting what this Court is about to do. The Fifth Circuit did not speak that clearly.

The Fifth [141] Circuit did not speak that clearly. Then that is a necessary inferment from the rather brief decision saying Norris-LaGuardia prevents the action that the Federal Court, this Court will await for it to speak, or for the United States Supreme Court, or for some appellate court in Florida to speak more clearly.

With full confidence that on the line some Court will speak more fully and more clearly, there is just, to make the record quite clear, no evidence whatever of any violence involved. That is simply to eliminate this from the consideration. The only evidence presented was that of the witness Morris Altman, and the Court rejects the testimony of Mr. Altman to the extent any rejection is required and concludes there is no proof there is any violence or threat of violence involved in the picketing.

The decision made by this Court is solely upon the basis already stated and not upon the basis of violence, just to clear any dead wood out of the case. So, it may be presented crystal clear to the appellate court what the precise basis of ruling of this Court is.

A temporary injunction will be issued to the defendants named in the original complaint, exclusive of A. L. Groves and C. H. Wright, a temporary [142] restraining order will be included to direct to A. L. Groves and C. H. Wright.

Having no reasonable facilities for drafting such a temporary injunction in writing, there are these alternative possibilities, with the consent of the Court Reporter, it might be dictated to the Court Reporter with a request she type it for signature, or if there

is no problem of an immediate reinstatement of picketing, the Court could request counsel for the plaintiff, or counsel for the—or both counsel for the plaintiff and the defendant, jointly, that such a temporary injunction and temporary restraining order, and present it for signature tomorrow, depending on whether we have a continuation of the gentleman's agreement about not restoring the pickets until that was done. For any other practical matter, I am simply saying, I don't have a secretary today. I have problems, too. I work any hours I wish, but my secretary, I only employ one, is under Civil Service, under my full blessing, and she won't come to work until 9:00 o'clock tomorrow morning.

If there is anything you gentlemen think I have not covered in what I have said that should be covered, simply that I have forgotten to mention it, I will be glad to do it.

[143] I do not invite further argument. I don't open it up toward that, the decision is made.

* * * * *

Opinion of the District Court of Appeal, First District

IN THE

DISTRICT COURT OF APPEAL

FIRST DISTRICT, STATE OF FLORIDA

JULY TERM, A. D. 1967

Case No. I-233

Opinion filed July 18, 1967.

An Appeal from the Circuit Court for Duval County. Roger J. Waybright, Judge.

Richard Horn of Rutledge & Milledge, for Appellants.

McCarthy, Adams & Foote; Rogers, Towers, Bailey, Jones & Gay; and Cox, Grissett & Webb, for Appellee.

PER CURIAM

The question of jurisdiction of the State court over the matter involved herein having been for all practical purposes determined by this court in its refusal to issue a writ of prohibition against the circuit judge hearing this case, and a refusal of the United States District Court to grant removal thereof to Federal court, and it appearing that the trial court exercised a proper authority in enjoining a violation of a valid state statute,[1] the order appealed from is hereby Affirmed.

WIGGINTON, Chief Judge, JOHNSON and SPECTOR, JJ., concur.

---

[1] Radio Corporation of America v. Local 780, 160 So. 2d 150 (Fla. App. 2d, 1964), cert. denied 380 U. S. 973 (1965).

Notice of Appeal

[Filed September 15, 1967]

IN THE

DISTRICT COURT OF APPEAL

OF FLORIDA

FIRST DISTRICT

The appellants, Brotherhood of Railroad Trainmen, a labor organization, Order of Railway Conductors and Brakemen, a labor organization, Brotherhood of Locomotive Firemen and Enginemen, a labor organization, Ray Moore, an individual, Lowell Kennedy, an individual, and T. C. Bolin, an individual, hereby take and enter their appeal to the Supreme Court of Florida to review the opinion, judgment and decision of the District Court of Appeal, First District of Florida, bearing date July 18, 1967, and rendered on July 18, 1967, upon its recording in Minute Book 3, page 449, of the records of said Court.

The nature of the decision, opinion and judgment appealed from is a judgment of affirmance of a final decree of the Duval County Circuit Court, entering a permanent injunction against the appellants and in favor of the appellee. The decision initially passed upon the validity of a state statute.

All parties to said cause are called upon to take notice of the entry of this appeal.

Order of Florida Supreme Court on Motion to Dismiss Appeal

IN THE

SUPREME COURT OF FLORIDA

JULY TERM, A. D. 1967

TUESDAY, NOVEMBER 7, 1967

Case No. 36,712

Upon consideration of appellee's motion to dismiss appeal it is ordered that said motion be and the same is hereby granted and it is ordered that the appeal be and is hereby dismissed.

A True Copy

TEST:

SID J. WHITE
Clerk Supreme Court.

Order of Florida Supreme Court Denying Petition for Writ of Certiorari

IN THE

SUPREME COURT

OF FLORIDA

JANUARY TERM, A. D. 1968

Tuesday, January 30, 1968

Case No. 36,713

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

A True Copy

TEST:

SID J. WHITE
Clerk Supreme Court